

# **TITLE 6**

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## **Public Works**

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# Chapter 1

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## Grades

### **6-1-1 Establishment of Grades**

### **6-1-2 Alteration of Grade Prohibited**

#### **Sec. 6-1-1 Establishment of Grades.**

- (a) **Grades to be Established.** The grade of all streets, alleys and sidewalks shall be established by vote by the Village Board and the same recorded by the Village Clerk-Treasurer in his 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 shall be done by the owner of the abutting lots or parcels of land or at their expense as hereinafter provided. Before such construction is commenced by the owners of the abutting lots or parcels of land, the Village Engineer or Director of Public Works shall, upon application by the respective owners for a sidewalk grade, cause such sidewalk grade to be established. If a Village project changes the grade, the Village shall be responsible for the cost of establishing the new grade. If a property owner's project changes the grade, the property owner shall be responsible for the cost of establishing the new grade.

#### **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 Fredonia by any means whatsoever unless authorized or instructed to do so by the Director of Public Works. All such alterations of grade shall be recorded in the office of the Village Clerk-Treasurer.

## Chapter 2

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### Streets and Sidewalks

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

No owner or occupant shall allow the sidewalk abutting on his premises to be littered with rubbish or dirt. If such owner or occupant shall refuse or fail to remove any such rubbish or dirt when notified to do so by the Director of Public Works, the Director of Public Works may cause the same to be done and report the cost thereof to the Village Clerk-Treasurer who shall spread the cost on the tax roll as a special tax against the premises, pursuant to Sec. 66.60(16), 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) Sidewalk Construction.**

- (1) Permit Required.** No person shall construct, repair or reconstruct any sidewalk without having first obtained a permit from the Village of Fredonia. Such permit shall be issued upon an application form provided by the village and shall contain such information as the Director of Public Works or his designee shall deem necessary. Issuance shall be

conditioned upon complete compliance with the provisions of this chapter.

- (2) **Installation Policy.** Sidewalks will be installed on various Village streets as determined by the Village Board, upon the recommendation of the Plan Commission. Prime consideration for installation of sidewalks will be high pedestrian usage and general public safety.
- (3) **Action by Village Board.** Whenever the Village Board shall determine that a public need exists, it may, by resolution, determine that sidewalks shall be constructed or repaired. Unless otherwise specified therein, the sidewalk shall conform to the standards of this Section and it shall be laid according to the established grade of the street. The provision of Sec. 66.0907 Wisconsin Statutes shall apply to work performed and assessments levied under this Section.
- (4) **Notice.** A copy of the resolution shall be served on the owner, or agent of the owner, of each parcel in front of which such work is ordered in the manner prescribed by Section 66.0907(3)(c), Wisconsin Statutes.
- (5) **Default of Owner.** If an owner fails, within sixty (60) days after service of a copy of such resolution, to effect the sidewalk construction or repair called for, the Village may cause such work to be done, at the expense of the owner. Such cost shall be entered by the Village Clerk-Treasurer as a special assessment levied against the property assessed, and it shall be a lien upon the land and collected in all respects like any other taxes upon real estate.
- (6) **Minor Repairs.** If the estimated cost of repair to a sidewalk does not exceed One Hundred Dollars (\$100.00), the Village may immediately effect repairs, without prior notice to the owner or letting the work by contract.

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

- (1) **General.** Concrete sidewalk construction shall meet the specifications and provisions set forth in this Section and shall be constructed in locations and to line and grade as established by the Village.
- (2) **Grading.** Prior to construction, ground on which sidewalks are to be placed shall be brought to within three (3) inches of subgrade by the contractor.
- (3) **Subgrade.** Subgrade shall be three (3) inches of sand fill, thoroughly and uniformly compacted and brought to correct grade and thoroughly wet down immediately before concrete is placed. Soft and unsuitable subgrade material shall be removed and replaced with sand or other satisfactory material, and the subgrade shall be thoroughly and uniformly compacted and moistened immediately before the concrete is placed.
- (4) **Concrete.** The mix for concrete shall be one (1) part cement, two and one-half (2 ½) parts clear sand and three and one-half (3 1/3) parts stone. Gravel shall be of good quality and washed. Concrete shall test three thousand (3,000) pounds compression in twenty-eight (28) days.
- (5) **Jointing.** Travers expansion joints one-half (1/2) inch thick and the width of the sidewalk, shall be placed at forty (40) foot maximum intervals. At

all places where a walk intersects another walk or curb line, a one-half (1/2) inch expansion joint shall be placed.

**(6) Slope.** To provide adequate drainage, the sidewalk shall slope toward the curb at a rate of one-fourth (1/4) inch per foot of width of sidewalk. All joints and edges shall be finished with a one-fourth (1/4) inch radius edging tool. Sidewalks shall be constructed within the limits of the street, and unless otherwise specifically indicated, there shall be a twelve (12) inch strip of street property left between the property line and the edge of the sidewalk.

**(7) Width and Thickness.**

(a) Residential walks shall be four (4) or five (5) feet in width and not less than four (4) inches thick except within driveway approaches where the minimum thickness shall be six (6) inches, provided that walks in residential areas may be repaired or replaced to a width not less than the existing width on the effective date of this Section. Sidewalks in front of commercial or industrial establishments shall be not less than four (4) feet in width and four (4) inches in thickness, and /or shall conform to existing sidewalks if over four (4) feet in width, except within driveway approaches where the minimum thickness shall be seven (7) inches.

(b) The grade to be maintained shall be one and one-half (1 1/2) inches higher than the curb on the inside line, and shall be three-fourths (3/4) inch higher than the curb on the curb side.

(c) The inside sidewalk line shall be twelve (12) inches from the lot line.

(d) One-half (1/2) inch reinforcement rod shall be used when replacing or repairing sidewalks over alley entrances.

**(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 rains, 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.** Concrete shall be kept moist by sprinkling, covering or combination of both for a minimum of five (5) days, or a curing compound may be used in place of the curing procedure.

**(10) Higher Standards.** Where deemed necessary by the Village, higher sidewalk standards may be required by the Director of Public Works.

(c) **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, such replacement to be accomplished at the adjacent property owner's cost.

- (d) **Sidewalk Inspections.** The members of the Public Works Committee or the Director of Public Works will, before the second board meeting of May of each even numbered year, visually inspect the sidewalks within the Village. Upon this inspection, the following criteria will be used to determine if a sidewalk is defective and if a repair order is to be issued:
- (1) Three fourths (3/4) inch vertical differential.
  - (2) Vertical alignment, settled more than one (1) inch per foot from normal grade.
  - (3) Drop off at the edge.
  - (4) Poles, trees, or other objects creating hazards.
  - (5) Cracks more than one-half (1/2) inch wide in the segment.
  - (6) Stone poppage or excessive rough surface (fifty percent (50%) or more of slab).

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

### **Sec. 6-2-3 Excavations of Streets, Alleys, Public Ways and Grounds.**

- (a) **Permit Required.** No person, partnership or corporation, or their agents or employees or contractors, shall make or cause to be made any opening or excavations in any public street, public alley, public way, public ground, public sidewalk or Village-owned easement within the Village of Fredonia without a permit therefore from the Village Clerk-Treasurer.
- (b) **Application for Permit.** The application for a permit shall be in writing and signed by the applicant or his agent. The applicant shall submit to the Village Clerk-Treasurer, at the time the permit is applied for, sufficient information relating to the work to be done including the general location and nature of the work and the method applicant proposes to use in doing the work. The Village Clerk-Treasurer 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 Director of Public Works.
- (d) **Validity of Permit.** Permits shall be valid for a period of thirty (30) days from the date of approval, except as provided for under Section 6-2-4(g) for pavement replacement.
- (e) **Renewal of Permit.** If operations have begun under an approved permit and will continue beyond the thirty (30) day validation period, the permittee shall apply for a thirty (30) day permit renewal by written request to the Village Clerk-Treasurer and payment of a Ten Dollar (\$10.00) renewal permit fee. Permit renewals shall be issued at the discretion of the Village Clerk-Treasurer.
- (f) **Village Standards; Fees.**
- (1) **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.

- (2) **Fee.** The fee for a street opening permit shall be Fifty Dollars (\$50.00) plus actual Village expenses. Permit fees shall be paid to the Village Clerk-Treasurer who shall issue his receipt therefor.
- (g) **Insurance Required.** A permit shall be issued only upon condition that the applicant submit to the Village Clerk-Treasurer satisfactory written evidence that applicant has in force and will maintain during the time the permit is in effect public liability insurance of not less than \$500,000 per one (1) person, \$500,000 for one (1) accident and property damage coverage of not less than \$500,000. The policy shall name the Village of Fredonia as the third party insured.
- (h) **Bond.**
  - (1) Before a permit for excavating or opening any street or public way may be issued, the applicant must sign a statement that he will indemnify and save harmless the Village of Fredonia and its officers from all liability for accidents and damage caused by any of the work covered by his permit, and that he will fill up and place in good and safe condition all excavations and openings made in the street, and will replace and restore the pavement over any opening he may make as near as can be the state and condition in which he found it, and keep and maintain the same in such condition, normal wear and tear excepted, to the satisfaction of the Director of Public Works for a period of one (1) year, and that he will pay all fines or forfeitures imposed upon him for any violation of any rule, regulation or ordinance governing street openings or 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 Director of Public Works.
  - (4) Whenever the Director of Public Works shall find that any such work has become defective within one (1) year of the date of completion, he shall give written notice thereof to the contractor or to his surety stating the defect, the work to be done, the cost thereof and the period of time deemed by the Director of Public Works 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.

## **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 December 15 and March 15 except where it is determined by the Director of Public Works 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 Director of Public Works 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 Director of Public Works, 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 employees of any necessary precaution against injury or damage to persons, vehicles or property of any kind.
  - (3) Unless otherwise approved, a minimum of one (1) lane of traffic in each direction shall be provided. Every effort shall be made on the part of the permittee to provide reasonable access to all properties adjacent to his project. In the event traffic is limited to less than one (1) lane in each direction, a flagman or temporary traffic control signal shall be provided by the permittee 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 Director of Public Works, Village Marshal, or Village Clerk-Treasurer 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).

**(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 work and in accordance with all applicable codes and regulations.
- (2) If the pavement is damaged during excavation beyond the original saw cut lines, it shall be saw cut again along neat, straight lines. The finished saw cut shall leave a regular rectangular section for pavement replacement. Should the street opening occur within adjacent or close to an existing patch or require more than one (1) opening within a short distance, the permittee shall identify and locate the existing patches or additional openings on the permit application form. The Director of Public Works shall, on the basis of an on-site inspection, approximate the boundaries of the pavement replacement area.
- (3) Pavement replacement areas with the long dimension in the direction of travel shall have the long dimension parallel with the curb line or the direction of travel. Pavement replacement areas in concrete pavements shall be parallel with or at right angles to the direction of travel.
- (4) The Director of Public Works 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 the opinion of the Director of Public Works, is unsuitable.
- (2) All excavation within the street, defined as back of curb to back of curb, shall require slurry backfill to minimize settling.

- (3) In refilling the excavation, if there is not sufficient material excavated suitable for refilling, the deficiency shall be made up with material, approved prior to use by the Director of Public Works, hauled in.
  - (4) Whenever an excavation crosses an existing utility, pipe or other structure, backfill shall be carefully compacted in stages from the bottom of the excavation. Any sanitary sewer, storm sewer, water, telephone, natural gas or other service shall not be interrupted by the permittee. It shall be the permittee's responsibility to have the various utilities locate and mark their facilities prior to excavation.
  - (5) Mechanical compaction shall be used on all materials used for trench backfill. Each layer (12-inch maximum) shall be uniformly compacted to a dry density of at least ninety-five percent (95%) of the maximum dry density as determined by the Modified Proctor Test (ASTM-1557). Compaction or consolidation by flooding shall not be permitted.
  - (6) All excavations shall be subject to testing by the Village. Backfilled material not achieving the above compaction requirements shall be removed and recompacted by the permittee. The cost of any retesting shall be paid by the permittee.
  - (7) When the sides of the trench will not stand perpendicular, sheathing and braces shall be used to prevent caving. No timber, bracing, lagging, sheathing or other lumber shall be left in any trench. At no time shall any street pavements be permitted to overhand the excavation.
- (f) **Notice.** It shall be the duty of the permittee to notify the Director of Public Works 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 Director of Public Works shall also be notified at least four (4) hours prior to backfilling and/or restoring the surfaces.
- (g) **Pavement and 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 and one-half (3 1/2) inches, whichever is greater. Bituminous pavement shall be placed in a maximum of a two (2) inch base layer and a one and one-half (1 1/2) inch top layer, with each layer compacted to a maximum density and shall consist of Wisconsin Department of Transportation Gradation No. 1 for the binder course and Wisconsin Department of Transportation No. 3 for the surface course. The finished surface shall be smooth and free of surface irregularities and shall match the existing pavement and any castings or street appurtenances. Allowable deviations shall be no more than one-quarter (1/4) inch as measured with a ten (10) foot straight edge.

- (3) Concrete pavement shall be placed to the full depth of the existing pavement, or seven (7) inches, whichever is greater. Concrete used shall not contain calcium chloride. The surface shall be given a light broom finish. The edges shall be tooled to prevent spalling at the saw cut edge. The surface shall be evenly and completely sealed with a white pigmented curing compound. The surface shall be protected from traffic for a minimum of three (3) days. Tie bars shall be installed as directed by the Director of Public Works.
- (4) In emergency excavations during winter months when it is not possible to replace the removed pavement with a like material, the excavation shall be temporarily resurfaced with a minimum of three (3) inches of cold mix bituminous material. This temporary wearing surface shall be compacted and rolled smooth. These temporary wearing surfaces shall be removed and replaced with material as specified above by not later than the following June 1<sup>st</sup>, except as provided above. Permanent pavements shall be replaced within sixty (60) days of the date of the permit.
- (h) **Emergency Excavation.** In the event of an emergency, any person, firm or corporation owning or controlling any sewer, gas main, water main, conduit or other utility in or under any public street, alley easement, way or ground and his agents and employees may 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 Director of Public Works, Village Marshal, or Village Clerk-Treasurer 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 Director of Public Works shall notify in writing each person, utility or other agency owning or controlling any sewer, water main, conduit or other utility in or under said street or any real property abutting said street, that all such excavation work in such street must be completed within thirty (30) days. After such permanent improvement or repaving, no permit shall be issued to open or excavate said street for a period of five (5) years after the date of improvement or repaving unless, in the opinion of the Director of Public Works, 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.

## **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 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. 66.045, Wis. Stats.
- (2) Building materials for the period authorized by the Building Inspector which shall not obstruct more than one-half (1/2) of the sidewalk or more than one-third (1/3) of the traveled portion of the street and which do not interfere with the flow in the gutters.
- (3) Excavations and openings permitted under Sections 6-2-3 and 6-2-4 of this Code.

(c) **Issuance of Permit.**

(1) The Village Clerk-Treasurer, upon the recommendation of the Director of Public Works and/or Building Inspector, is authorized to issue a permit which allows property owners to place certain fixtures, such as for the sale of merchandise, on sidewalks which immediately adjoin their property. In determining if a permit shall be authorized, all of the following requirements must be met:

- a. The property must be located in an area zoned for commercial uses.
  - b. The fixture(s) shall not be physically attached to the sidewalk, any street fixtures or any adjacent building, and shall be of a temporary design.
  - c. The placement of the fixture shall not impede the flow of pedestrian traffic on the sidewalk. In no event shall the fixture reduce the unobstructed sidewalk width to less than five (5) feet at any point.
  - d. The property owner shall provide the Village with proof of liability insurance coverage. The insurance coverage shall be an amount of not less than Five Hundred Thousand Dollars (\$500,000.00) per occurrence and the policy shall specifically state that it includes coverage for the fixtures located on the Village sidewalks. In addition, the Village shall be identified as a third-party insured.
  - e. The fixtures(s) shall not be for sale nor shall the fixtures(s) be used for the sale of merchandise. Specifically excluded are all forms of vending machines, vendor carts or tables, etc.
  - f. The property owner whose property adjoins the Village sidewalk shall file the permit application or authorize the occupant of the subject property to file the permit application.
  - g. The property owner or the occupant of the subject property shall display the approved permit in the window of the building so that it can be seen from the sidewalk.
- (2) Upon reviewing the permit application if it is determined by the Village Clerk-Treasurer that all of the above requirements have been met, he shall issue the permit. Said permit may be revoked by the Village President,

Director of Public Works, Village Clerk-Treasurer, Building Inspector or any Village law enforcement officer (“Village enforcement officials”) at any time when one (1) or more of the above requirements are not complied with or if he determines that the placement of the fixture(s) endangers the safety of the pedestrians who utilize the sidewalks.

- (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 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 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 Clerk-Treasurer shall enter those charges onto the tax roll as a special tax as provided by the State Statutes.
  - (2) The failure of the Village Clerk-Treasurer to record such claim or to mail such notice or the failure of the owner to receive such notice shall not affect the right to place the Village expense on the tax rolls for unpaid bills for abating the obstructions 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 may be granted to applicants by the Village Clerk-Treasurer 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 Clerk-Treasurer may request advisory recommendations from the Village Marshal, Director of Public Works and 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 Clerk-Treasurer a bond in an amount determined by the Director of Public Works not exceeding Fifty Thousand Dollars (\$50,000.00), 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.
- (c) **Fee.** The fee for a street privilege permit shall be in the sum of Ten Dollars (\$10.00), 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 Director of Public Works, Village Marshal 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 Marshal and Director of Public Works, 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 Director of Public Works and Village Marshal.
  - (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) **Terminations.** All street privilege permits shall automatically terminate at the end of three (3) months from the date of issuance unless an earlier termination date is specified thereon at the discretion of the Village Clerk-Treasurer.
- (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 Director of Public Works, Village Marshal or Building Inspector to do so, it shall be the duty of the Director of Public Works, Village Marshal or Building Inspector to remove such obstruction and make return of the costs and expenses thereof to the Village Clerk-Treasurer who shall enter such cost on the next annual tax roll as a special charge against the property abutting such obstructed sidewalk, and such sum shall be levied and collected as other special taxes against real estate.

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

## **Sec. 6-2-7 Snow and Ice Removal.**

- (a) **Removal From Sidewalks.** The owner, occupant or person in charge of any parcel or lot which fronts upon or abuts any sidewalk shall keep said sidewalk clear of all snow and ice. In the event of snow accumulating on said sidewalk due to natural means and/or by any other means, said sidewalks shall be cleared of all accumulated snow and/or ice within twenty-four (24) hours from the time the snow ceases. Sidewalks are to be kept clear of snow and ice to a minimum of four (4) feet in width. In the event that ice has formed on any sidewalk in such a manner that it cannot be removed, the owner, occupant or person in charge of the parcel or lot which fronts upon or adjoins said sidewalk shall keep the sidewalk sprinkled with sand and/or salt to permit safe travel by pedestrians.
- (b) **Village Removal of Snow from Sidewalks.** Snow removal from public sidewalks is the responsibility of the abutting property owner and/or occupant. Snow and ice remaining on sidewalks and posing a hazard to the public shall be reported to the Police Department for enforcement of this Section. In the case of corner lots, the abutting property owner and/or occupant will be required to remove all snow from the sidewalk. Where Village plows cause excessive buildup of snow at intersection corners, the plowed snow will be removed by the Public Works Department after all other higher priority snow removals are completed. Any other sidewalk area deemed the responsibility of the abutting property owner and/or occupant not cleared within twenty-four (24) hours after a snowfall shall be subject to clearing by the Public Works Department. The cost and expense of this operation shall be billed to the property owner and if not paid will be entered as a special assessment on the property tax roll.
- (c) **Snow and Ice Not to Encroach.** No person shall push, shove or in any way deposit any snow or ice onto any public streets or alley, public or private sidewalk or public lands dedicated to public use except for parcels or lots located where existing buildings are constructed within five (5) feet of the street right-of-way and the sidewalks exist from the Village right-of-way to the curb line. In such instances, the owners, occupants and/or employees of parcels or lots shall be permitted to deposit snow and ice from their sidewalks onto the public streets.
- (d) **Enforcement.** The Director of Public Works, his designees and all law enforcement officers 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.
- (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 Subsections (b)(1) and (2) after receiving a written notice shall result in the Director of Public Works causing the removal of said snow and/or ice. The Director of Public Works shall charge each owner of property a fee of Sixty Dollars (\$60.00) per hour, with a minimum rate of one (1) hour charged for each project for actual time expended in clearing ice and snow. Such charge shall be submitted to the affected property owner within one (1) week after the charges are incurred. In addition, the Director of Public Works shall keep an accurate account of all such charges and report all such charges unpaid with thirty (30) days after submission to the property owner to the Village Clerk-Treasurer.
- (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. Notice of the bill for the removal of snow and/or ice shall be mailed to the last-known address of the owner of the parcel or lot and shall be payable within ten (10) calendar days from the receipt thereof. Within sixty (60) days after such costs and expenses are incurred and remain unpaid, the Village Clerk-Treasurer shall enter those charges onto the tax roll as a special tax as provided by Sec. 66.615(5), 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. Prosecution under this Section shall not bar the Village from proceeding under Subsections (f) and (g). Each such charge submitted to the property owner shall notify the property owner of this provision.

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

## **Sec. 6-2-8 Terrace Areas.**

- (a) **Definition.** The definition of “terrace” shall be defined in Section 6-4-2(f).
- (b) **Noxious Weeds; Paving.** All that part of the terrace not covered by a sidewalk shall be kept free and clear of all noxious weeds and shall not be paved, surfaced or covered with any material which shall prevent the growth of plants and shall be maintained as a lawn, except in areas specifically approved by the Village Board or its designee. Basketball backstops, statuary, structures, flag poles and other objects shall not be placed in the terrace area.
- (c) **Responsibility to Maintain.** Every owner of land in the Village whose land abuts a terrace is required to maintain, or have maintained by his tenant, the terrace directly abutting such land as provided in this Section and elsewhere in this Code. Every owner shall keep mailboxes located on a terrace free and clear of snow.

*Cross Reference:* Title 6, Chapter 4.

### **Sec. 6-2-9 Vaults.**

All new vaults and cisterns under sidewalks shall be prohibited.

### **Sec. 6-2-10 Downspouts and Eaves of Buildings Not to Drain on Sidewalks.**

No downspouts from any building shall terminate on or upon, or in such position that the contents of such spout be cast upon or flow back or over any public sidewalk in the Village. When the eaves of a building extend over or are so constructed that water may fall therefrom or run back upon any public sidewalk, such eaves shall be so protected by proper spouts or otherwise that no water shall fall or drain therefrom or run back upon or over any public sidewalk. The owner or owners of any building and the officers of any association or corporation owning any building on which any spouts or the eaves thereof shall be maintained contrary to this Section shall be subject to a penalty as provided in Section 1-1-6 of this Code of Ordinances.

### **Sec. 6-2-11 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 1<sup>st</sup> to be considered for installation in the following year.

### **Sec. 6-2-12 Raking Leaves into Streets.**

In the interest of public safety, health and general welfare, community appearance and efficiency of operation, it shall be unlawful to rake or place fallen tree leaves onto the pavement or into the gutter of any public street except within 72 hours of a scheduled curbside pickup. It shall be unlawful to rake or place any grass clippings onto the pavement or into the gutter of any public street at any time. No person shall permit grass clippings from mower swaths to remain upon sidewalks or on abutting property owned or occupied by him.

### **Sec. 6-2-13 Unlawful Dumping on Streets.**

- (a) **Unlawful Dumping.** 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.
- (b) **Dropping of Mud or Other Substances on Streets.**
  - (1) It shall be unlawful for the driver of any vehicle or equipment leaving private property to allow any mud, dirt, construction site debris or other

substance to drop therefrom, either intentionally or unintentionally, upon any street or alley in the Village of Fredonia, unless such driver or operator of said vehicle or other equipment shall stop and remove such mud or other substance so deposited from said street or alley, or cause such mud or substance to be removed without cost to the Village of Fredonia.

- (2) The owners of any real estate where any vehicle or equipment leaving such property shall leave, drop, or throw mud or any other substance upon any street or alley shall be responsible for the prompt removal of the same from such street or alley. The Village Clerk-Treasurer shall, upon notification or knowledge of mud or other substance being deposited upon any street or alley from private property, immediately take action to clean such mud or other substance from the street, either by use of Village employees or equipment or by hiring of anyone available to do this work. Accurate records of the costs to the Village shall be kept and the Village Clerk-Treasurer shall bill the costs of the same and a twenty percent (20%) administrative charge to the said property owner. If the bill as submitted is not paid by the following October 31, such charges shall be placed upon the tax roll and collected the same as other real property taxes.

## **Sec. 6-2-14 Street Numbers.**

- (a) **Buildings to Have Street Numbers.** Each principal building in the Village shall be assigned an official street number. All lots and parts of lots in the Village shall be numbered in accordance with a street numbering map on file in the office of the Village Clerk-Treasurer. Plats shall be numbered to conform as nearly as possible to the general scheme of numbering as outlined on the map.
- (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 the official street number assigned to that building as provided in (a) hereof. The physical numbers provided herein shall be not less than two and one-half (2 ½) inches high on a background of not less than three (3) inches. 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 or any building neglects for twenty (20) days to duly attach and maintain the proper numbers on the building, the Village shall serve him a notice requiring him to properly number the same, and if he neglects to do so for ten (10) days after service, he shall be subject to a forfeiture as provided in Section 1-1-6.

## **Sec. 6-2-15 Obstruction of Public Ditches.**

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

## **Sec. 6-2-16 Curb and Gutter.**

- (a) **Special Assessments and Charges.** The Village may, at any time, construct or have constructed curb and gutter in the Village. As a complete alternative to any other methods provided by law, the Village may collect for said curb and gutter in the manner and by the procedure provided by Sec. 66.60 and/or 66.62, Wis. Stats.
- (b) **Alternative Methods.**
  - (1) **Petition.** Any taxpayer and property owner in the Village may petition the Village for installation of curb and gutter abutting property owned by said petitioner in said Village.
    - a. **Requirements of Petition.** The petition for the installation of curb and gutter shall state that the petitioner(s) request curb and gutter abutting property owner by said petitions, describing said property, stating what type is required, and further said petition shall state that each petitioner individually shall be responsible and liable for, and thereby obligates himself to pay the total costs of installation of said curb and gutter to include surveying and other contingent expenses.
    - b. **Effect of Petition.** In the event a petition for the installation of curb and gutter is presented to the Village Board, the Board shall have the exclusive discretion to accept or reject the same. The Board may refer said petition, may table it, but in any event they shall act upon the same in some manner within six (6) months of receipt of said petition.
  - (2) **Resolution of Intent.** In the event the Village should desire to construct curb and gutter in any area of the Village, the Village Board may adopt a resolution of intent to install said curb and gutter and assess the costs thereof to the abutting property owners as provided in Sec. 66.60, Wis. Stats.
- (c) **Types of Curb and Gutter.** All curbs and gutters shall conform to the construction standards adopted by the Village Board, on file with the Clerk-Treasurer. However, all curbs shall, at a minimum, be twenty-four (24) inches in width, six (6) inches in height on street side and twelve (12) inches in height on the back of curb.
- (d) **Liability for Repair Thereof.** Whenever curb and gutter is installed, all property owners receiving the benefits thereof shall be responsible and liable for all replacements, repairs, damage and maintenance and during any period of

construction on the property against which it abuts. Any expense for additional width of road made necessary by blacktop curb and gutter shall be the responsibility of and shall be paid for by the abutting property owner.

- (e) **Entered on Tax Rolls.** Any and all costs of replacement, repair and maintenance of curb and gutter incurred within two (2) years after installation thereof or damage thereto during construction as provided in Subsection (d) above, shall be charged to the lot or parcel of land affected thereby pursuant to Sec. 66.60, Wis. Stats.

*State Law Reference:* Sections 66.60 and 66.62, Wis. Stats.

## Chapter 3

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### Driveways

#### 6-3-1 Driveway Location, Design and Construction Requirements

##### Sec. 6-3-1 Driveway Location, Design and Construction Requirements.

- (a) **General Requirements.** The location, design and construction of driveways shall be in accordance with the following:
  - (1) **Permit Required.** No person shall construct, repair or reconstruct any driveway without having first obtained a permit from the Village of Fredonia. Such permit shall be issued upon an application form provided by the village and shall contain such information as the Director of Public Works or his designee shall deem necessary. Issuance shall be conditioned upon complete compliance with the provisions of this chapter.
  - (2) **Permit Fee.** The fee for a driveway permit is as stated in fee schedule.
  - (3) **General Design.** Private driveway shall be of such width and so located that all of such driveways and their appurtenances are within the limits of the frontage abutting the street of the property served. Driveways shall not provide direct ingress or egress to or from any street intersection area and shall not encroach upon or occupy areas of the street right-of-way required for effective traffic control or for street signs or signals. A driveway shall be so located and constructed that vehicles approaching or using it shall have adequate sight distance along the street. Driveway approaches shall be at least six (6) feet apart, at least three (3) feet from the lot line, 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.

- (4) **Number.** The number of driveways to serve an individual property fronting on a street shall be one (1), except where deemed necessary and feasible by the Village Board for reasonable and adequate service to the property, considering the safety, convenience and utility of the street.
- (5) **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 (8).
- (6) **Drainage.** The surface of the driveway connecting with rural type street cross sections shall slope downward and away from the highway shoulder a sufficient distance to preclude ordinary surface water drainage flowing onto the street roadbed.
- (7) **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. Curb head removal by sawing shall be allowed if it conforms to the Specifications and Standards of the Village of Fredonia. The driveway surface shall be connected with the highway pavement and the sidewalk, if any, in a neat, workmanlike manner. The driveway construction shall include the replacement of such sidewalk area which are inadequate or which are or may be damaged by means of vehicle travel across the sidewalk.
- (8) **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 Director of Public Works 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 Director of Public Works.
- (9) **Relocation of Utilities.** Any costs of relocating utilities shall be the responsibility of the property owner with approval of the Village Board necessary before any utility may be relocated and the driveway installed.
- (10) **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.

- (11) **Variations.** Any of the above requirements may be varied by the Village Board in such instances where the peculiar nature of the property or the design of the street may make the rigid adherence to the above requirements impossible or impractical.

- (b) **Special Requirements for Commercial and Industrial Driveways.** The following regulations are applicable to driveways serving commercial or industrial establishments.

(1) **Width of Drive.** No part of a private driveway located within the dedicated area of a public street shall, except as hereinafter provided, have a width greater than thirty (30) feet measured at right angles to the center line of said driveway, except as increased by permissible radii. In instances where the nature of the commercial or industrial activity or the physical characteristics of the land would require a driveway of greater width than herein specified, the Village Board in its discretion may permit a driveway of additional width.

(2) **Angular Placement of Driveway.** The angle between the center line of the driveway and the curb line shall not be less than 45 degrees.

(3) **Island Areas.** Where the public sidewalk is adjacent to the curb, an island of a minimum length of six (6) feet measured along the curb line shall be placed between each entrance to a Village street. The curb shall be left intact for the length of this island. Where the public sidewalk is remote from the curb, an island of a minimum length of ten (10) feet measured along the right-of-way line shall be maintained along each entrance to the Village street. All flares shall be tangent to the curb line. A curb length of not less than three (3) feet shall be left undisturbed adjacent to each property line to serve as an island area in the event an adjoining property owner applies for a driveway permit to serve his property.

- (c) **Special requirements for Residential Driveways.** The following regulations are applicable to driveways serving residential property.

(1) **Width of Driveways.** Openings for vehicular ingress and egress shall be at least ten (10) feet wide at the property line for residential properties, but shall not exceed three (3) feet wider than the garage door opening or twenty-four (24) feet (whichever is greater) at the property line, with a maximum additional six (6) feet at the curb opening.

(2) **Angular Placement.** The center line of the drive may be parallel to the property line of the lot where access is required or at right angles to the curb line.

- (d) **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 Fredonia 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 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.
- (e) **Surfacing Requirements.** Driveways serving commercial, industrial or multi-family (three (3) or more units) properties shall surface such driveways with bituminous asphalt or concrete within twelve (12) months of occupancy permit or temporary occupancy permit, whichever comes first.
- (f) **Culvert Construction and Standards.**

- (1) **Size.** Culverts shall be installed prior to construction work being commenced on the property service. 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 reinforced concrete, and shall be made of new manufacture, unless specifically excepted by the Director of Public Works or Village Engineer. Plastic pipe may only be used following approval by the Director of Public Works.
- (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 a concrete or metal apron endwalls as directed by the Village Engineer.
- (5) **Backfill Material.** Material used for backfill shall be of quantity acceptable to the Village Engineer or Director of Public Works 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 the Director of Public Works.
- (7) **Distance.** The distance between culverts under successive driveways shall not be less than ten (10) feet except as such restricted area is permitted to be filled pursuant to Subsection (a)(6).
- (8) **Cost.** The property owner shall install the culvert and be responsible for the cost thereof. The property owner shall keep his culverts unobstructed and clean.
- (9) **Appeal.** Persons may request a variance from the culvert requirements of this Section by filing a written appeals request with the Village Clerk-Treasurer, who shall place the matter as an agenda item for the Village Board's next meeting. The Village Board may only waive the requirement for a culvert upon a finding that unique physical characteristics of the location in question render a culvert unnecessary. The Village Engineer or Director of Public Works may be asked to render an opinion on the request.

# Chapter 4

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## Trees and Shrubs

- 6-4-1 Statement of Policy and Applicability of Chapter
- 6-4-2 Definitions
- 6-4-3 Creation and Establishment of Tree Board
- 6-4-4 Planting of Street Trees
- 6-4-5 Public Tree Care
- 6-4-6 Tree Topping
- 6-4-7 Trimming
- 6-4-8 Prohibited Acts
- 6-4-9 Interference with Village Tree Board
- 6-4-10 Dead or Diseased Tree Removal on Private Property
- 6-4-11 Removal of Stumps
- 6-4-12 Arborist's License and Bond
- 6-4-13 Review by Village Board
- 6-4-14 Penalty

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

- (a) **Intent and Purpose.** It is the policy of the Village 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, firm, association or corporation.
- (b) **Public Areas.** Includes all public parks and other lands owned, controlled or leased by the Village except the terrace areas.
- (c) **Street Trees.** Trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the Village.
- (d) **Park Trees.** Trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the Village or to which the public has free access as a park.
- (e) **Public Nuisance.** Any tree, shrub or part thereof which by reason of its condition interferes with the use of any public area, is infected with a plant disease, is infested with injurious insects or pests, is injurious to public improvements or endanger the life, health, safety or welfare of person or property.
- (f) **Boulevard or Terrace Areas.** The land between the normal location of the street curbing and sidewalk. Where there is no sidewalk, the area four 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.
- (g) **Major Alteration.** Trimming a tree beyond necessary trimming to comply with this Chapter.

### **Sec. 6-4-3 Creation and Establishment of Tree Board.**

- (a) **Composition.** There is hereby created and established a Tree board for the Village of Fredonia which shall consist of five (5) members, citizens and residents of this Village who shall be appointed by the Village President with the approval of the Village Board.
- (b) **Term of Office.** The term of the five (5) persons to be appointed by the Village President shall be three (3) years except that the term of two (2) of the members appointed to the first Board shall be for only one (1) year and the term of two (2) members of the first Board shall be for two (2) years. In the event that vacancy shall occur during the term of any member, his successor shall be appointed for the unexpired portion of the term.
- (c) **Compensation.** Members of the Board shall serve without compensation.
- (d) **Duties and Responsibilities.** It shall be the responsibility of the Tree Board to study, investigate, and develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan will be presented annually to the Village Board and upon their acceptance and approval shall constitute the official comprehensive Village tree plan for the Village of Fredonia. The Tree Board when requested by the Village Board, shall consider, investigate, make finding, report and recommend upon any special matter of question coming within the scope of its work.

- (e) **Operation.** The Tree Board shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

## **Sec. 6-4-4 Planting of Street Trees.**

- (a) **Street Tree Species to Be Planted.** The following list constitutes the official Street Tree species for the Village. No species other than those included in this list may be planted as Street Trees without written permission of the Village Tree Board.

### **Small Trees**

Apricot  
Crabapple  
Flowering (sp)  
Golden Rain Tree  
Hawthorne (sp)  
Redbud  
Little Leaf Linden  
Lilac, Jap. Tree  
Ornamental Pear  
Amur Maple  
Plum, Purpleleaf  
Seviceberry

### **Medium Trees**

Ash, Green  
Hackberry  
Honeylocust (thornless)  
Ash, Autumn Purple  
Birch, River  
Mulberry, Red (fruitless, male)  
Oak, English  
Oak, Red  
Pagodatree, Japanese  
Pecan

### **Large Trees**

Coffeetree, Kentucky  
Maple, Silver  
Maple, Sugar  
Oak, Bur  
Birch  
Sycamore, London, Plantree  
Crimson King Maple

Seedless Mountain Ash  
Rubrem Red Maple  
Linden

- (b) **Spacing.** The spacing of street trees will be in accordance with the three (3) species size classes listed in Subsection (a), and no trees may be planted closer together than the following:
- (1) Small trees – thirty (30) feet;
  - (2) Medium trees – forty (40) feet;
  - (3) Large trees – fifty (50) feet (except in special plantings designed or approved by a landscape architect).
- (c) **Distance from Curb and Sidewalk.** The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three (3) species size classes listed in Subsection (a), and no trees may be planted closer to any curb or sidewalk than the following:
- (d) **Distance from Street Corners and Fire Hydrants.** No street tree shall be planted closer than thirty-five (35) feet of any street corner, measured from the point of nearest intersecting curbs or curblines. No street tree shall be planted closer than ten (10) feet of any fire hydrant.
- (e) **Utilities.** No street trees other than those species listed as SMALL TREES in Subsection (a) may be planted under or within ten (10) lateral feet of any overhead utility wire, or over or within five (5) lateral feet of any underground water line, sewer line, transmission line or other utility.

## **Sec. 6-4-5 Public Tree Care.**

The Village shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all street, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The Village Tree Board may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, or other public improvements, or is affected with any injurious fungus, insect or other pest. This Section does not prohibit the planting of street trees by adjacent property owners providing that the selection and location of said trees is in accordance with Section 6-4-4.

## **Sec. 6-4-7 Trimming.**

- (a) **Clearance Trimming.**
- (1) Trees and shrubs standing in or upon any public right-of-way between the lot line and the curb or ledge of the improved street or upon any private premises adjacent to any public street, right-of-way, park, playground, or place shall be kept trimmed by the owner or owners of the premises upon or in front of which such trees or shrubs are standing so that the lowest branches projecting over the public street or right-of-way provide a clearance of not less than thirteen and one-half (13 ½) feet and over all other public places of not less than eight (8) feet. The Village Tree Board

may waive the provisions of this Section for newly planted trees if he determines that they do not interfere with public travel, obstruct the light of any street light, or endanger public safety.

- (2) Clearance from sidewalk to lower branches shall not be less than eight (8) 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 eight (8) 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.

**(b) Pruning; Corner Clearance.**

- (1) Notwithstanding any other provision of this Chapter, no person shall maintain, plant or permit to remain on any private or public premises situated at the intersection of two (2) or more streets or alleys in the Village any hedge, tree, shrub or other growth which may obstruct the view of the operator of any motor vehicle or pedestrian approaching such intersection.
- (2) Every owner of any tree overhanging any street or right-of-way within the Village shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight (8) feet above the surface of the street or sidewalk. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The Village shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with visibility of any traffic control device or sign.
- (3) Any shrub, tree or other plant which obstructs the view at an intersection of the view of a traffic sign shall be deemed to be dangerous to public travel and the Tree Board 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 Tree Board 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.
- (4) Any person who is an owner or occupant or firm or corporation failing to obey the written notice of the Tree Board 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. 6-4-8 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 “no parking” signs to trees when necessary in conjunction with street improvement work, tree maintenance work or parades.
  - (6) Cause or encourage any fire or burning near or around any tree.
- (b) **Excavations.** All trees on any parkway or other publicly owned property near any excavation or construction of any building structure or street work shall be sufficiently guarded and protected by those responsible for such work as to prevent any injury to said trees. No person shall excavate any ditches, tunnels or trenches, or install pavement within a radius of ten (10) feet from any public tree without a permit from the Village Tree Board.

## **Sec. 6-4-9 Interference with Village Tree Board.**

It shall be unlawful for any person to prevent, delay or interfere with the Village Tree Board, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any street trees, or park trees. Furthermore the Tree Board or its duly contracted arborist shall have the authority to enter onto private property whereon there is located a tree, shrub, plant or plant part that is suspected to be a public nuisance.

## **Sec. 6-4-10 Dead or Diseased Tree Removal on Private Property.**

The Village shall have the right to cause the removal of any dead or diseased trees on private property within the Village, when such trees constitute a hazard to life and

property, or harbor insects or disease which constitute a potential threat to other trees within the Village. Under the direction of the Village Tree Board the Arborist shall cause a written notice to be personally served or sent by registered mail to the person to whom was sent the tax bill for the general taxes for the proceeding year. Such notice shall describe the kind of tree, shrub, or other plant or plant part which has been declared to be a public nuisance; its location on the property; the reason for declaring it a nuisance; and the actions that the property owner may undertake to abate the nuisance. Removal shall be done by said owners at their expense within sixty (60) days after the date of service of notice. In the event of failure of owners to comply with such provision, the Village shall have the authority to remove such trees and charge the cost of removal on the owner's property tax notice.

### **Sec. 6-4-11 Removal of Stumps.**

All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

### **Sec. 6-4-12 Arborist's License and Bond.**

It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or removing street or park trees within the Village without first applying for and procuring a license. The license fee shall be Twenty-five Dollars (\$25.00) annually in advance; provided, however, that no license shall be required of any public service company or Village employee doing such work in the pursuit of their public service endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of Fifty Thousand Dollars (\$50,000) for bodily injury and One Hundred Thousand Dollars (\$100,000) property damage indemnifying the Village or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

### **Sec. 6-4-13 Review by Village Board.**

The Village Board shall have the right to review the conduct, acts and decisions of the Village Tree Board. Any person may appeal from any ruling or order of the Village Tree Board to the Village Board who may hear the matter and make final decision.

### **Sec. 6-4-14 Penalty.**

Any person violating any provision of this Chapter shall be, upon conviction or a plea of guilty subject to a forfeiture not to exceed Five Hundred Dollars (\$500.00). If as a result of the violation of any provision of this Chapter, the injury, mutilation, or death of a tree, shrub, or other plant located on Village-owned property is caused, the cost of repair or replacement of such tree, shrub, or other plant shall be borne by the party in violation. The replacement value of trees and shrubs shall be determined in accordance with the latest revision of "A Guide to the Professional Evaluation of Landscape Trees, Specimen Shrubs, and Evergreens", as published by the International Society of Arboriculture.