

TITLE 6
Public Works

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CHAPTER 1
Grades

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SEC. 6-1-1 ESTABLISHMENT OF GRADES

- a) **Grades to be Established.** The grade of all streets, alleys and sidewalks shall be established 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 owners of the abutting lots or parcels of land or at their expense as hereinafter provided. Before such construction is commenced by the owners of the abutting lots or parcels of land, the Village Board 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 Howards Grove by any means whatsoever unless authorized or instructed to do so by the Village Board or authorized Village representative. All such alterations of grade shall be recorded in the office of the Village Clerk-Treasurer.

SEC. 6-1-3 REGULATION OF UNDERGROUND UTILITIES

- a) **Elevation.** The grade or elevation of all underground construction 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 Authorized Village Representative.
- c) **Filing Plans.** Complete plans for any such construction must be filed with and be approved by the Authorized Village Representative before construction can begin.
- d) **Inspection.** On request of the Authorized Village Representative, 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 Authorized Village Representative and in accordance with his directions and specifications.
- f) **Establishment of Grade.** At the request of the utility company, the Authorized Village Representative 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 Authorized Village Representative as soon thereafter as is reasonably possible.
- h) **Restoration of Surface.** In the event of an 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.

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
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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 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 Clerk-Treasurer who shall spread the cost on the tax roll as a special tax against the premises, pursuant to Sec. 66.0627, Wis. Stats., or such cost may be recovered in an action against the owner or occupant.

SEC. 6-2-2 CONSTRUCTION AND REPAIR OF SIDEWALKS

- a) **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) **Apportionment of Costs.** Where required by the Village Board, it shall be the duty of the Village to construct sidewalks along or upon any street, alley or highway in the Village of Howards Grove and to pay for such work, except for sidewalks constructed on or adjacent to tax-exempt property, the cost of which shall be assessed in full to the abutting property. Sidewalks in new subdivisions shall be installed pursuant to the Village's Subdivision Ordinance.
- c) **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 placing of concrete 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 minimum quality 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 two thousand (2,000) pounds compression in twenty-eight (28) days.
 5. **Jointing.** Expansion joints one-half (1/2) inch thick and four (4) feet wide shall be placed at fifty (50) 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 minimum 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 six (6) inch strip of street property left between the property line and the edge of the sidewalk.
 7. **Width and Thickness.** Residential walks shall be 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 eight (8) feet in width and five (5) inches in thickness, except within driveway approaches where the minimum thickness shall be seven (7) inches. Where possible, sidewalks shall be located nine (9) feet from the curb. 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 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.** Concrete shall be kept moist by sprinkling, covering or a combination of both for a minimum of five (5) days.
 10. **Higher Standards.** Where deemed necessary by the Village, higher sidewalk standards may be required by the Village Board.
- d) **Repair or Replacement of Defective Sidewalks.** Pursuant to Sec. 66.0907, Wis. Stats., the Village Board may order at any time property owners to repair or remove and replace any sidewalk which is unsafe, defective or insufficient. If the property owner shall fail to so repair or remove and replace such sidewalk within thirty (30) days after service of the notice provided in Sec. 66.0907(3)(c), Wis. Stats., the Village Board shall repair or construct such sidewalk and the Village Clerk-Treasurer shall enter the total cost thereof upon the tax roll as a special assessment against said lot or parcel of land. If a life-threatening situation exists which is caused by a sidewalk in need of repair, the Village Board or its designee shall direct the property owner to make repairs within seven (7) days. If the property owner shall fail to repair such sidewalk within the required period, the Village Board shall make the necessary repairs and the Village Clerk-Treasurer shall enter the total cost thereof on the tax roll as a special tax against said parcel.
- e) **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) **Permit Required.** 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 ground, public sidewalk or Village-owned easement within the Village of Howards Grove without a permit therefore from the Authorized Village Representative.
- 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 Authorized Village Representative, 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 Authorized Village Representative shall determine if sufficient information is submitted. No permit shall be issued to any person who has not paid the costs charged to him on previous street restoration work performed by the Village. A permit shall be granted only on the condition that, by its acceptance, the applicant agrees the excavation or other work under the permit shall be performed within the time and in the manner as directed by the Authorized Village Representative and subject to the requirements of Sections 6-2-3 and 6-2-4.
- c) **Exception.** The provisions of this Section shall not apply to Village excavation work done under the direction of the Village Board or its designees.
- 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 Authorized Village Representative. Permit renewals shall be issued at the discretion of the Authorized Village Representative. There shall be no fee for such permits.
- 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. There shall be no fee for a street opening permit.
- g) **Insurance Required.** A permit shall be issued only upon the condition that the applicant submit to the Village 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 Five Hundred Thousand Dollars (\$500,000) per one (1) person, Five Hundred Thousand Dollars (\$500,000) for one (1) accident and property damage coverage of not less than Five Hundred Thousand Dollars (\$500,000).

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 Authorized Village Representative 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 required by the Authorized Village Representative, in accordance with Section VI of the Manual of Uniform Traffic Control Devices. Sufficient warning lights shall be kept on from sunset to sunrise. No open flame warning devices shall be used. Except by special permission from the Authorized Village

Representative, 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 so as to safely cycle traffic in each direction past the work area.
 4. (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 Authorized Village Representative 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. When any excavation is done in any concrete street, the concrete shall be removed and replaced from joint to joint. If the Authorized Village Representative determines that the excavation may cause damage to adjacent sections, he may order additional squares of concrete to be removed; such additional removal shall be from joint to joint. When any excavation is done in any asphalt or resurfaced street, the asphalt shall be sawed in such a manner as to provide a good butt joint. The costs of pavement removal and replacement shall be borne by the property owners or the utility performing the work. 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 Authorized Village Representative 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 pave 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 Authorized Village Representative 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 water-courses 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 Authorized Village Representative, 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 Authorized Village Representative, 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. Backfilling shall be done in accordance with the "Standards and Methods for Excavation and Backfilling" (Appendix A) on file with the Village Clerk-Treasurer, and as amended from time to time. Copies of such Standards and Methods shall be made available by the Authorized Village Representative to any contractor engaged in such work. When a street is opened or trenched beyond the curbline, the backfilling shall be continued beyond the curbline as far as the street has been opened, but need not be continued beyond the adjacent lot line.
 5. 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.
 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 Clerk-Treasurer or Authorized Village Representative 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 Clerk-Treasurer or Authorized Village Representative shall also be notified at least four (4) hours prior to backfilling and or restoring the surface.
- g) **Restoring Surface.** Excavated surfaces shall be restored as follows:
1. By Permit Holder. All contractors and other persons authorized to make an excavation or opening in any street, alley, sidewalk or public place for laying any drain, sewer, gas or water pipes, or for any other purpose, shall rebuild and restore the same to as good, substantial and permanent a condition as existed prior to commencement of the work.
 2. By Village. In all cases where a paved or macadamized street has been excavate for laying or repairing sewers, drains, gas or water pipes, the Village shall rebuild and restore the street; and the costs of such restoration by the Village shall be charged to the person authorized to make the excavation.
- h) **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 three-quarter (1-3/4) inch base layer and a one and one-quarter (1-1/4) inch to 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.
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. 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.
 - i) **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 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.
 - j) **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 Clerk-Treasurer 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 or 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.

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. 66.0425, 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) **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 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 the Authorized Village Representative, Building Inspector or 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 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 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 shall request advisory recommendations from the Authorized Village

Representative prior to issuance of the permit. Village officials may attach conditions to the permit, including proof of liability insurance.

- b) **Bond.**
 - 1. 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 Village President not exceeding Five Thousand Dollars (\$5,000.00), 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.
 - 2. The applicant shall also provide evidence of liability insurance as provided in Section 6-2-3(g).
- c) **Fee.** The fee for a street privilege permit shall be as indicated on the Village Rate Schedule
- 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, Authorized Village Representative 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 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 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 Clerk-Treasurer who shall enter such cost on the next annual tax roll as a special charge against the proper 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.** 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 to accumulate on said sidewalk. 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) **Notice and Removal of Snow from Sidewalks.** If the owner, occupant or person in charge of any parcel or lot which fronts upon or adjoins any sidewalk shall fail to keep said sidewalk clear of snow and ice as set forth in Subsection (a), Village law enforcement officers and other designated Village officials and employees shall take the following action:
 1. Hazardous Conditions. If a Village law enforcement officer or other designated Village officials and employees determine that the failure to remove the snow and ice from the sidewalk creates an immediate danger to the public health and/or safety, he shall cause the issuance of a written notice to the owner, occupant or person in charge of any parcel or lot directing that the snow and ice be removed within two (2) hours from the delivery of the notice. In the event the property owner, occupant or person in charge of said parcel or lot is unavailable to receive a written notice, the police officer and other designated Village officials and employees shall immediately cause the removal of the snow and/or ice. The police officer and other designated Village officials and employees shall send a written notice to the last-known address of the property owner notifying him that a hazardous condition existed which required immediately abatement.
 2. Snow and Ice Not to Encroach. No person shall push, shove or in any way deposit any snow or ice onto any public streets, alley, sidewalk or public lands dedicated to public use except for parcels or lots located where existing buildings are constructed within five (5) feet of the street right-of-way and the sidewalks exist from the Village right-of-way to the curb line. In such instances, the owners, occupants and or employees of parcels or lots shall be permitted to deposit snow and ice from their sidewalks onto the public streets.
- c) **Enforcement.** All sworn police officers and other designated Village officials and employees are hereby authorized and directed to enforce the provisions of this Section.
- d) **Continued Violations.** Each twenty-four (24) hour period where a violation occurs shall constitute a separate offense under this Section for enforcement purposes. Repeated violations or subsequent additional accumulations of snow and/or ice shall not nullify any ending notice issued under this Section.
- e) **Abatement After Notice.** Failure of the owner, occupant or person in charge of any parcel or lot to cause the removal of snow and/or ice within the time established under Subsection (b)(1) and (2) after receiving a written notice shall result in the Village causing the removal of said snow and or ice.
- f) **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. 66.0907(5), Wis. Stats.

- g) **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: Sections 66.0627 and 66.0907(3)(f) and (5), Wis. Stats.

SEC. 6-2-8 TERRACE AREAS

- a) **Definition.** The definition of "terrace" shall be as 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 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 1st 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.

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.

SEC. 6-2-13 CURB AND GUTTER CONSTRUCTION AND REPAIR

- a) **Method.** Except in the case of new curb and gutter under the Village's Subdivision Code, curb and gutter within the Village of Howards Grove shall be reconstructed, repaired, or replaced by the Village pursuant to either of the following two (2) methods:

1. **Petition From Abutting Property Owners.** In case of a petition to the Village to build, replace, or repair any curb and gutter signed by the abutting property owners, such petition shall, whether specifically stated in the petition or not, authorize said Village to build said curb and gutter abutting the property owned by said petitioners in such manner as the Village Board shall direct. The work shall be done either directly by the Village or by a private contractor hired by the Village.
2. **Village Board Determination Without Petition from Abutting Property Owners.** Whenever the Village Board shall, by resolution, determine that a curb and gutter be laid, rebuilt, or repaired on any public street within the Village, it shall proceed according to Sections 66.0703 and 66.0701, Wis. Stats.
 - b) **Cost.** The seventy-five percent (75%) cost of curb and gutter reconstruction or repair projects shall be special assessed to adjacent property owners, with twenty-five percent (25%) of such cost borne by the Village; except that tax-exempt property owners shall pay one hundred percent (100%) of the cost of curb and gutter reconstruction or repair projects.

SEC. 6-2-14 STREET NUMBERS

- a) **Buildings to Have Street Numbers.** Each principal building in the Village shall be assigned to an official street number by the Village Clerk-Treasurer. 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 (2-1/2) inches high on a background of not less than three (3) inches. Each required number shall be fixed 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 so be affixed in such location that it may be seen in like manner from such alley. Numbers shall not be affixed to garage doors as a primary source of identification.
- 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 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.

APPENDIX A

Standards and Methods for Excavation, Backfilling and Compaction

Department of Public Works

- a) **General.** All excavations, trenches, ditches or other openings in any Village street, alley, sidewalk, or other public place shall be performed in accordance with these specifications, and Sections 6-2-3 and 6-2-4 of the Village Code of Ordinances.
- b) **Permit Required.** No person, contractor or utility shall make any utilities excavation or dig any hole, ditch or drain in any street, alley, sidewalk or public place without first having obtained an excavation permit from the Authorized Village Representative. An excavation permit shall be granted only on condition that by its acceptance the applicant agrees the excavation or other work under the permit shall be performed within the time and in the manner as directed by the Authorized Village Representative and subject to the requirements of this Chapter. No excavation permit shall be issued to any person who has not paid the costs charged to him on previous street restoration work performed by the Village
- c) **Sawing and Breaking Pavement for Removal.**
 - 1. All concrete or asphalt pavement shall be sawed a minimum of three (3) inches prior to being broken for removal.
 - 2. The saw cut shall be made along the edges of the excavation prior to removal operation and in such a way as to avoid excessive removal or ragged uneven edges. See attached "cut pavement trench section", detail. If caving of the trench occurs, limits of cutting will be determined by the operations supervisor.
- d) **Backfilling Excavations.** The excavation shall be backfilled in accordance with the following specifications:
 - 1. Street excavations shall be cleaned of all loose and displaced material down to a stable bottom.
 - 2. Excavated material shall be removed from the site and be properly disposed of. Excavated material shall not be used as backfill, within the street.
 - 3. Excavation shall, if required, be dewatered before backfilling is started.
 - 4. The excavation shall be backfilled with crushed road gravel, graded crushed stone chips, pea gravel or cement sand slurry, meeting the following specifications:

<u>Sieve Size</u>	<u>3/4 Inch Crushed Road Gravel</u>	<u>3/4 Inch Graded Crushed Stone Chips</u>
1-1/2 inches	-----	-----
1 inch	100	100
3/4 inch	85-100	85-100
3/8 inch	50-80	50-80
No. 4	35-60	35-65
No. 10	25-50	-----
No. 40	15-30	15-30
No. 200	5-15	5-15

(Percent passing by weight)

Sand/Cement Slurry -- 1.5 sacks portland cement, per cubic yard graded sand, enough water to produce a mix of stiff mortar consistency.

- e) **Backfilling and Compaction.** All backfill of a sand or gravel nature shall be placed in twelve (12) inch lifts, leveled and compacted with a mechanical vibrator plate or jumping jack compactor. Stone chips or pea gravel shall be placed, leveled and tamped to insure all voids around the pipe and within the excavation have been filled. Each individual responsible for excavations within the street shall also maintain the trench or opening prior to pavement replacement.
- f) **Lights and Barrier; Liability.** Each contractor or other person making any excavations, openings, repairs, grading or other work which shall in any manner obstruct or render unsafe any street, alley, sidewalk or public place shall erect and maintain adequate barriers and lights to prevent accidents, and shall be liable for all damages for failure to do so. Such contractor or person shall also be liable for all damages caused by the negligent digging in streets, alleys, sidewalks, or public places or which may result from his carelessness in the prosecution of such work.
- g) **Restoring Surface.** Excavated surfaces shall be restored as follows: All contractors, utilities and other persons authorized to make an excavation or opening in any street, alley, sidewalk or public place for laying any drain, sewer, gas, electric or water pipes or for any other purpose shall rebuild and restore the same to as good, substantial and permanent a condition as existed prior to commencement of the work. Notification of utilities, emergency government, insurance, fire department, schools, etc., shall be the responsibility of the contractor performing the work.

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 Howards Grove without first obtaining a driveway permit therefore as provided by this Chapter. There is no fee for a driveway permit when a new driveway is to be constructed in conjunction with the construction of a new principal structure within the Village; the driveway fee is included in the building permit process in such cases.
- c) **Application.** Application for such permit shall be made to the Village Clerk-Treasurer 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. See the fee schedule for a driveway permit fee. Upon receipt of the application, the Village Plan Commission or designated representative 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 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 successors or assigns, agrees to indemnify and hold harmless the Village of Howards Grove, 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:

1. General Design. Private driveways shall be of such width and so located that all of such driveways and their appurtenances are within the limits of the frontage abutting the street of the property served. Driveways shall not provide direct ingress or egress to or from any street intersection area and shall not encroach upon or occupy areas of the street right-of-way required for effective traffic control or for street signs or signals. A driveway shall be so located and constructed that vehicles approaching or using it shall have adequate sight distance along the street. Driveway approaches shall be at least ten (10) feet apart except by special permission from the Village Board, and driveways shall in all cases be placed wherever possible as not to interfere with utilities in place. All driveways shall be able to accommodate two (2) or more vehicles. Driveways must be constructed at a 90 degree angle to a dedicated street.
2. Number. The number of driveways to serve an individual property fronting on a street shall be one (1), except where deemed necessary and feasible by the Village Board for reasonable and adequate service to the property, considering the safety, convenience and utility of the street.
3. Island Area. The island area in the street right-of-way between successive driveways or adjoining a driveway and between the highway shoulder and right-of-way shall constitute a restricted area and may be filled in and graded only as provided in Subsection (7).
4. 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.
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. Existing curb and gutter shall be sawcut at limits of removal. The driveway surface shall be connected with the highway pavement and the sidewalk, if any, in a neat, workmanlike manner. The driveway construction shall include the replacement of such sidewalk areas which are inadequate or which are or may be damaged by means of vehicle travel across the sidewalk.
6. Restricted Areas. The restricted area between successive driveways may be filled in and graded only when the following requirements are complied with:
 - b) 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.
 - c) 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.
 - d) 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 Boards.
1. 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.
2. 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.
3. Variances. 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.

- e) **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-five (35) feet measured at right angles to the centerline 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°
- f) **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 twenty-four (24) feet at the property line and thirty (30) 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 curblines.
- g) **Appeal from Permit Refusal.** Any person feeling himself aggrieved by the refusal of the Village Clerk-Treasurer 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.
- h) **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 Howards Grove 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.
- i) **Culvert Construction and Standards.**
1. Size. Culverts shall be installed prior to construction work being commenced on the property served. No pipe smaller than twelve (12) inches in diameter (or equivalent elliptical or arch pipe) will be allowed. All culverts shall be constructed or galvanized steel or reinforced concrete, and shall be made of new manufacture, unless specifically excepted by the Authorized Village Representative or Village Engineer.

2. Gauge. The minimum wall thickness for the galvanized steel pipe culverts shall be in accordance with the following:

<u>Pipe Diameter</u>	<u>Gauge</u>
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;

<u>Height of cover</u> (in feet)	<u>Class of Pipe</u>
0-2	IV
2-3	III
3-6	II

3. Drainage. The culverts shall be placed in the ditch line 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 Authorized Village Representative 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 Authorized Village Representative.
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 . he 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 Authorized Village Representative may be asked to render an opinion on the request.

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 of 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 Howards Grove 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 on 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 property.
- e) **Boulevard or Terrace Areas.** "Boulevard or Terrace Areas" means the land between the normal location of the street curbing and property line. Also known as the road right-of-way. "Boulevard" shall have the same meaning as "terrace". Where there are sidewalks, the entire road right-of-way to the property line, even if the right-of-way extends beyond the sidewalk, 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 designated by the Village Board as authorized to carry out provisions of this Chapter.

SEC. 6-4-3 AUTHORITY OF VILLAGE FORESTER TO ENTER PRIVATE PREMISES

- a) 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 be appointed by the Village President, subject to Board confirmation.
- b) The Village Forester or his 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 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 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 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 Public Works Committee, 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 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, he 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, he shall immediately serve or cause to be served personally or by registered mail upon the owner of such property, if he can be found, or upon the occupant thereof, a written notice of the existence of such nuisance and of a time and place for a hearing, 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, he 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's Public Works Committee.
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 Street Superintendent 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) The entire cost of abating any public nuisance, including removal or spraying of trees as defined herein, shall be charged to and assessed against the parcel or lot abutting on the street, alley, terrace, boulevard or parkway upon or in which such tree is located or the parcel or lot upon which such tree stands in accordance with Sec. 66.0627 or Sec. 27.09, Wis. Stats. The cost of abating any such nuisance or part thereof which is located in or upon any park shall be borne by the Village.
- b) The cost of abating a public nuisance or spraying elm trees or elm wood 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 its Public Works Committee, 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 its Public Works Committee, 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 Clerk-Treasurer 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 OF 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) **Tree Planting Program.** The Village Forester and/or Public Works Committee shall recommend to the Village Board a program for tree planting, care and protection for public parks. The Board shall also encourage the planting, care and protection of trees and shrubs on private premises within the Village.
- c) **Cottonwood and Box Elder Trees Prohibited.** No person shall plant within the Village of Howards Grove 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 here declared a nuisance. Any person planting any such trees on his premises shall cause the same to be removed. If any owner shall fail to remove any such tree within thirty (30) days after receiving written notice from the Village Forester, the Village shall cause the removal of such tree and report the full cost thereof to the Village Clerk-Treasurer who shall place such charge upon the next tax roll as a special charge against the premises.
- d) **Planting of Certain Trees Restricted.** No person shall hereafter plant any Catalpa, Chinese Elm, White Poplar, Weeping Willow, Evergreen, Lombardy Poplar or any fruit or nut tree in or upon any public street, parkway, terrace or other public place within the Village of Howards Grove unless he shall first secure written permission from the Village Forester, who shall not approve any such planting if, in his 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 five (5) 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.

SEC. 6-4-8 TRIMMING

- a) Any person growing a tree, plant or shrub on any private property abutting on public streets or public places shall:
 1. Trim them so as not to be a hazard to persons using the streets or to interfere with the proper lighting of the streets.
 2. Treat or remove any tree, plant or shrub which the Village Forester and/or the Public Works Committee shall determine is diseased or insect-ridden or a hazard to persons using the streets.
 3. Remove and refrain from planting any tree, plant or shrub designated by the State Department of Agriculture and published in its regulations to be a host or carrier of a dangerous plant disease or insect pest.
- b) Owners of any property may arrange to have any tree, plant or shrub sprayed, trimmed or removed by the Village and pay for such service at the rates established by the Village Board.
- c) Trees and shrubs standing in or upon any boulevard, public area or upon any private premises adjacent to any public right-of-way or public areas shall be kept trimmed so that the lowest branches projecting over the public street or alley provide a clearance of not less than fourteen (14) feet. The Village Forester may waive the provisions of this Section for newly planted trees if he determines that they do not interfere with public travel, obstruct the light of any street light or endanger public safety.

- d) The necessity of the pruning may be determined by the Village Forester.
- e) 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.
- f) 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 agents or employees while they are engaged in the performance of duties imposed by this Section.
 2. Refuse to permit the Forester or his duly authorized representative to enter upon his premises at reasonable times to exercise the duties imposed by this Section.
- d) **Refusal to Abate Nuisance.** Permits any public nuisance to remain on any premises owned or controlled by him when ordered by the Forester to abate such nuisance.

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 Clerk-Treasurer.

SEC. 6-4-12 ADOPTION OF STATE STATUTES

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

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