

## CHAPTER 18

### PUBLIC WORKS

#### 18.01 Driveways and Culverts - Permits Required, Permit Fees and Escrow for Performance

- a. Approvals Required.
  - (1) Driveway Approval. No person shall construct or maintain any driveway across any ditch, sidewalk, or curbing or enter any road without first obtaining a driveway permit from the Town Board or its designated representative.
  - (2) Culvert Approval. No person shall begin excavation for a culvert without first obtaining (a) a culvert permit for the proper size and type of culvert from the Town's engineer and (b) paying the permit fees and the escrows required by this Ordinance. The actual placing and covering of the installed culvert shall be accomplished in accordance with the specifications of the Town Engineer and approval for the completed installation shall be required, in writing, from the Town Engineer.
- b. Permit Fee. A driveway permit fee or culvert permit fee as set forth in section 11.05(37) shall be charged for the issuance of each permit designated for the installation of a driveway or culvert as set forth in Subsection a., above.
- c. Security Deposits.
  - (1) Culvert Deposit. At the time of issuance of any permit for a culvert under this Section, the person receiving the permit shall be required to deposit with the Town a security deposit set forth in section 11.05(43) for the proper performance and installation of the culvert as required under all aspects of this Ordinance. The culvert security deposit shall be returned to the permit holder upon satisfactory completion of the culvert as determined by the Town Building Inspector or Director of Public Works.
  - (2) Ditch Line Deposit. Any person receiving a culvert permit under this Section shall deposit with the Town a security deposit set forth in section 11.05(43) for the proper performance and maintenance of the ditch line during the time of construction. The ditch line security deposit shall be returned to the permit holder upon satisfactory completion of the major construction and landscaping work on the premises as determined by the Town Building Inspector, Town engineer or Director of Public Works.
- d. Procedure for Installation.
  - (1) After the issuance of a permit, the Town shall within five (5) days cause the staking of the grades for the elevation of the culvert. No culvert shall be installed until such staking has been completed.
  - (2) The culvert shall be installed according to the stakes established by the Town, its Building Inspector, or its Town Engineer.
  - (3) A permit holder installing a culvert shall notify the Town within five (5) days of the completion of the installation, at which time the Town shall make an inspection to determine that the culvert was appropriately installed.

- (4) If the Town Engineer, Building Inspector, or Director of Public Works determines the culvert has been improperly installed, the permit holder shall be given thirty (30) days' notice, in writing, to repair, modify, or reinstall the culvert according to the specifications of the Town. At the expiration of the thirty (30) days, the Town shall re-inspect the culvert installation. The cost of the re-inspection shall be borne by the contractor and shall be taken from the security deposit required by Subsection c., above.
- (5) In the event the permit holder continues to fail to follow the specifications and has not repaired the improper installation within the period of thirty (30) days following the written notice, the permit holder forfeits any funds remaining from the security deposit upon the Town Engineer's written determination of the defective installation. The Town shall move to install the culvert in the appropriate manner and the security deposit funds shall be used to cover the costs of additional engineering expenditures and the repair, replacement or installation of the culvert. The balance of funds left in the escrow account, if any, shall be returned to the person taking out the permit. Nothing in this Subsection shall limit the Town's ability to recover reasonable and necessary expenditures exceeding the security deposit.

#### **18.02 Driveways and Culverts - Extensions for Existing Culverts**

- a. Permit Required. No existing culvert may be extended by two or more feet without first obtaining a permit for extension from the Town of Sheboygan or its designated agent.
- b. Fees. Permit fees for the extension of existing culverts shall be in the amount set forth in section 11.05(37). Additional engineering charges may be assessed according to the terms and conditions of this Section.
- c. Applicability. This Section shall apply only where an existing culvert has been installed for a driveway or drainage in the ditches in the Town of Sheboygan. The connection of any pipe to either end of an existing culvert installation shall be considered an extension of that culvert installation.
- d. Issuance. Permit issuance shall be upon the following terms and conditions:
  - (1) No extension shall cause the existing culvert and its extension together to exceed a total length of thirty-six (36) feet, excluding endwalls except as provided in section 18.02d(4).
  - (2) The permit applicant shall be responsible for all necessary Town engineering costs related to the culvert inspection. Prior to issuing the permit, the Town Engineer shall inspect the site of the proposed project and issue an estimate as to the projected Town Engineering fees necessary for project inspections. Prior to receiving an extension permit, the applicant shall deposit the estimated costs of engineering services with the Town Clerk. The applicant shall be responsible for reasonably necessary engineering costs in excess of the deposited amount.
  - (3) The Town Engineer or Director of Public Works shall have the right to refuse the extension permit if it is determined that the existing installation already constitutes an impediment to drainage or requires substantial adjustment in order to maintain adequate drainage flows or that an addition or extension to the existing culvert would create an obstruction or impediment to existing drainage flows.

- (4) On property which is zoned for commercial or industrial purposes, an extension of an existing culvert or the installation of a new culvert may be allowed which shall bring the total length of the driveway culvert to a maximum length of sixty (60) feet provided that the sixty- (60-) foot culvert length is necessary for ingress and egress of traffic. The total culvert length for driveways whose main function and/or purpose is for employee or customer parking is hereby limited to thirty-six (36) feet. Any extension of an existing culvert or the installation of a new culvert made under the provisions of this Section shall be subject to the installation of one or more cleanouts as determined by the Town Engineer or Director of Public Works or his or her designee.

### **18.03 Regulation of Town Culverts**

- a. The individual property owner shall pay the total cost of all culverts of twenty-four (24) inches or less in diameter where the installation thereof is on the right-of-way abutting the property owners' land.
- b. Where the Town Engineer or Director of Public Works or his or her designee determines a culvert is needed in excess of twenty-four (24) inches in diameter, the Town shall pay the cost of the additional culvert size and endwalls over twenty-four (24) inches. Payment will be provided directly to the person installing said culvert. This payment is to be made upon the request of the permit holder installing the culvert and shall be made following satisfactory inspection of the installation by the Town Engineer, Director of Public Works or designee, said payments to be authorized by the Town agent issuing the permit and the Town Board.
- c. All culverts on Town roads in the Town of Sheboygan shall be installed according to the grade set by the Town Engineer.
- d. Only galvanized steel, corrugated polyethylene pipe (HDPE) meeting AASHTO M 294 type S specifications, or reinforced concrete culvert pipe and endwalls shall be used for installations in the Town. The minimum length of any installation shall be twenty-four (24) feet of actual culvert pipe and a maximum length of thirty-six (36) feet of actual culvert pipe, except that the sixty- (60-) foot maximum length allowed by Section **18.02d(4)** shall be allowed if all provisions of that section are applicable and all conditions are met. Other installations may be made in excess of thirty-six (36) feet only on the permission of the Town Board and only under the conditions set for the installation by the Board. All installations shall be required to have endwalls on both ends of the culvert pipe. All descriptions of length hereunder do not include the endwalls and the extension of the endwalls beyond the end of the pipe is in addition to those lengths mentioned herein. This Ordinance shall apply to all new installations as of the Ordinance effective date.
- e. The Town Engineer shall designate the size and diameter of the culvert to be installed. In the event of disagreement by the owner with the Engineers, the owner may request the Town Board to review the matter and set the required diameter.
- f. Installation Requirements.
  - (1) To protect the culvert from crushing, breaking, or bending or any other damage, it is required that a minimum of eight (8) inches of crushed rock or gravel be placed on the top of the culvert.
  - (2) In the event eight (8) inches of cover would bring the grade level too high, the installation of an arch (oval) culvert pipe may be required by the Town Board.

- (3) Bedding and filling around the pipe and bedding and filling beneath the pipe shall be done with crushed rock, stone, gravel, or other material approved by the Town Board, but in no event shall dirt, clay, or other loose ground be used.
- g. After the culvert installation is complete, the driveway shall be at least four (4) inches below the grade of the adjacent highway pavement at a point six (6) feet from the edge of the pavement.

**18.04 Regulating and Establishing Conditions Related to Occupancy of Town Road Right-of-ways**

- a. Policy. It is the policy of the Town of Sheboygan to permit utility facilities to occupy road or street right-of-ways and other Town easements owned by the Town, subject to the regulations and conditions in this Ordinance to assure the Town unwarranted interference or conflicts with the Town's use of its right-of-ways or easements. The regulations contained in this Ordinance are to be implemented and enforced with the goal of eliminating or minimizing costs to the Town of Sheboygan. This policy acknowledges that utilities operate with regulatory constraints, and when resolving conflicts under this Ordinance, the Town shall consider but is not bound to make decisions in accordance with said regulatory constraints.
- b. Purpose. The purpose of this Ordinance is to establish procedures for the implementation of Wis. Stat. § 84.063 and to prevent delays and/or costs from being incurred by the Town or the Town's contractors for the delay and expense of the scheduling of utility relocations and to establish the penalties for interference with a public service structure pursuant to Wis. Stat. § 66.0831.
- c. Notice. Utilities shall be presumed to have notice of this Ordinance through its publication. The Ordinance will be provided to all utilities or any other entity permitted to install utilities within the right-of-way of any public street of the Town. Reference to these regulations shall be made in all permits to occupy any portion of a Town road right-of-way. Regardless of the date the utility began occupancy, compliance with the regulations and conditions of this Ordinance are required as a condition of continued occupancy of the Town's right-of-way or easement.
- d. Definitions.
  - Conflict** shall mean that the utility facility is located in the right-of-way or easement so as to interfere with the Town's project in such a way that proceeding with the Town's project will damage said utility facility or has, in the opinion of the Town Engineer, the potential or possibility to cause damage to the utility facility if the utility is not moved or protected.
  - Days** as used in this Ordinance shall mean calendar days.
  - Final Plan** shall mean engineering diagrams, plans, or specifications that are sufficiently detailed and contain construction plans upon which contractors can calculate and submit bids for the completion of the project and upon which the utility can determine the relocation of utility facilities and eliminate conflict with the Town's project.
  - Preliminary Plan** shall mean engineering diagrams, plans, or specifications that are sufficiently detailed to allow a utility to determine whether the Town's project will be in conflict with the utilities' existing location.
  - Utility** shall mean any public or private entity owning utility facilities located in the Town right-of-way.
  - Utility facilities** include any utility pipe, pipeline, wire, cable, cable service, duct, conduit, fiber optics, radio signal, or electrical transmission equipment

and associated utility plan and equipment, whether underground or above ground in the municipal right-of-way.

e. Project work, accommodation, or relocation procedures.

- (1) When the Town approves a project on a Town right-of-way or easement, the Town will send notice by certified mail to all utilities believed to have utility facilities located in the Town road right-of-way. It shall be the obligation of the owner of the utility facilities to notify the Town in writing within fifteen (15) days of the receipt of notice of the project verifying that the utility facilities are located in the project area of the Town right-of-way. Failure to respond shall mean that the utility represents that it has no utility facilities in the project right-of-way or easement and shall cause the utility to be responsible for said representation and any penalties or damages incurred as a result of said representation.
- (2) Upon completion of the preliminary engineering plans by the Town's engineer said plans shall be sent to all utilities having notified the Town of having utility facilities in the Town's road right-of-way or easement.
- (3) Within thirty (30) days of mailing of the preliminary plan the utility shall notify the Town of any conflict which may result in damage to the utility facility as it relates to the Town's planned construction and shall within forty-five (45) days after receiving the preliminary plan submit a written proposal to eliminate the conflict and potential for damage to the utility facility without cost to the Town or shall negotiate a resolution of the conflict by agreement to pay costs to the Town to resolve that conflict. If the resolution and the agreement cannot be completed within forty-five (45) days, the utility may request in writing an extension of fifteen (15) days to resolve conflicts.
- (4) In the event the resolution of the conflict cannot be completed within sixty (60) days of the mailing of the preliminary plan, the Town Board of the Town of Sheboygan shall review the proposals received and shall direct and order a specific resolution deemed necessary in order to complete the Town's project, which resolution eliminates or minimizes cost to the Town and the Town taxpayer.
- (5) Not less than sixty (60) days after the mailing of the preliminary plan, the Town shall mail a final plan to the utility having given notice that it has utility facilities within the project area. The mailing of the final plan constitutes notice that the conflicts with the Town's project or the work to be done by the Town's contractor shall be eliminated within sixty (60) days in accordance with the resolution of the conflict under Paragraphs **18.04e(3)** and (4), above. In the event unforeseen site conditions or other unforeseen circumstances necessitate a modification to the final plan, the Town may follow the procedures commencing with Sections **18.04e** of this Ordinance or in the alternative shall follow the emergency procedure under Section **18.04f**.

- g. Emergency Procedures. These emergency procedures are applicable to all situations where circumstances create the need to relocate utility facilities or protect utility facilities located in the Town's right-of-way or easement and the nature of the circumstances constitute an emergency and do not allow for following the relocation procedure of Section **18.04e**. In the event the relocation of utility facilities has been made necessary by emergency circumstances beyond the control of the Town and the Town is unable to

comply with notice provisions of Section **18.04e** of this Ordinance, the Town may declare the relocation to be an emergency and so notify the utility in writing by personal delivery. The utility shall respond to the Town's emergency notice within twenty-four (24) hours and representatives of the utility shall meet with the Town representatives within forty-eight (48) hours of the notice and shall agree to a resolution of the utility conflict to the satisfaction of the Town. If the Town and utility fail to agree on a resolution, the Town shall take the action it deems necessary to resolve the emergency and shall notify the utility in writing of the intended actions and the estimated cost and/or expense which will be incurred as a result of such action. The Town and Town's contractor shall keep a record of actual costs incurred and notify the utility in writing of the actual costs. Failure to pay said cost or expense within sixty (60) days of notice thereof shall constitute a violation of this Ordinance and shall be collected by the Town as a forfeiture in circuit court as provided in Section **18.04g**. of this Ordinance. In the event the utility objects to said action or the cost or expense related to said action, the utility may, within sixty (60) days from the date of the notice of said actual cost and/or expense file a declaratory action with the Circuit Court of Sheboygan County. The court shall determine the amount of the forfeiture to be assessed to the utility based upon the expense or cost incurred by the Town or the Town's contractors that resulted from relocation and/or protection from damage of the utility's facility or alteration of the Town's plan or project to avoid damage to the utility facility.

**18.05 Excavations, Alterations or Obstructions within Town of Sheboygan Right-of-ways**

- a. Permit Required. No individual, partnership, or corporation shall cause any excavation, alteration, or obstruction, excluding trees (see Section **18.13**), within Town of Sheboygan right-of-ways or easements without first obtaining a construction/excavation permit application and subsequent approval by the Town Engineer or Director of Public Works or his or her designee.
- b. Prohibited Obstructions. No rock gardens, boulders, benches, or fences shall be built or maintained in any public right-of-way.
- c. Fees.
  - (1) Utility Service Connections. A non-returnable fee set forth in section 11.05(24) shall accompany the construction/excavation permit application for the installation of utility services to the utility main. A detailed drawing, showing all existing utilities, structures, and improvements in the proposed installation area, including the proposed location of the new work, shall accompany the permit application.
  - (2) Utility Mainline Extensions. A non-returnable fee set forth in section 11.05(24) shall accompany the construction/excavation permit application for the installation of utility mainline extensions. A detailed drawing, showing all existing utilities, structures, and improvements in the proposed installation area, including the proposed location of the new work, shall accompany the permit application. The drawing shall bear a signature from the Director of Public Works or his or her designee verifying mutual design and planning of the proposed mainline extension with regard to existing underground utilities.
- d. Permit Review: Notice. The construction/excavation permit application shall be reviewed by the Town Engineer or designee who shall prepare a written report with a recommendation as to approving or denying the requested

- permit. Upon approval of the permit by the Town Engineer or Director of Public Works, the Town Clerk shall issue a construction/excavation permit to the applicant. The applicant shall notify the Director of Public Works forty-eight (48) hours prior to commencing work.
- e. Town Right-of-Ways or Easements. For the purpose of this Section, Town of Sheboygan right-of-ways and easements are construed to be areas as designated by the Town of Sheboygan and recorded as such in the Sheboygan Register of Deeds' Office.
  - f. Conditions of Permit. The Director of Public Works or the Town Engineer shall prescribe the conditions under which the excavation, alteration, or obstruction shall be made and it shall be the duty of the Director of Public Works or the Town Engineer to ensure that all conditions of the approved permit are complied with strictly and that the work is completed in a timely manner. A final inspection of the completed restoration and clean-up shall be made by the Director of Public Works or Town Engineer.
  - g. Indemnity Bond Required. Before a construction/excavation permit may be issued under this Section, the applicant receiving the permit shall deposit with the Town Clerk a security deposit as set forth in section 11.05(24) for the proper performance, installation, and restoration of the work as defined in the approved permit. An annual security deposit may be given under this Section exclusively covering utility service connections by the principal for one (1) year, beginning January 1, which shall be conditioned as specified below.
    - (1) The construction/excavation security deposit shall be returned to the applicant upon satisfactory completion of the project and restoration work as determined by the Director of Public Works or the Town Engineer.
    - (2) In the event of the failure of the applicant to properly perform the conditions of the approved permit, the Department of Public Works or the Town Engineer shall give the applicant a thirty- (30-) day notice, in writing, to repair, modify, or restore said conditions according to the specifications of the Town of Sheboygan. At the expiration of the thirty (30) days, the Town or its contractor shall perform the necessary repair, modification, or restoration as determined by the Department of Public Works or the Town Engineer and shall deduct the cost of said repair, modification, or restoration from the construction/excavation security deposit. The balance of the funds left in the escrow account, if any, shall be returned to the permit applicant.
  - h. Indemnity Bond Required. Before a construction/excavation permit may be issued, the applicant must execute and deposit with the Town Clerk an indemnity bond approved by the Town Chairperson in an amount equal to the estimated costs to repair or replace any Town improvements located in the right-of-way for which the permit is issued and further conditioned that he or she shall indemnify and save harmless the Town of Sheboygan and its officers and employees from all liability for accidents and damage caused by any of the work covered by his permit and that he shall fill up and place in good and safe condition all excavations and openings made in the road and shall replace and restore the pavement over any opening he may make as near as can be to 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 Town Board for a period of one (1) year, and that he or she shall pay all fines imposed upon him or her for any violation of any rule, regulation, or ordinance governing road openings or drain laying adopted by

the Town Board and shall repair any damage done to existing improvements during the progress of the excavation in accordance with the Ordinances, rules, and regulations of the Town. Such bond shall also guarantee that if the Town shall elect to make the road repair, the person opening the road shall pay all costs of making such repair and of maintaining the same for one (1) year. Recovery on such bond for any accident, injury, violation of law, ordinance, rule, or regulation shall not exhaust the bond but it shall cover any and all accidents, injuries, or violations during the period of excavation for which it is given. 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 Town Board as necessary to adequately protect the public and the Town.

- i. Liability Insurance Required. Before a construction/excavation permit may be issued, the applicant must furnish the Town Clerk with written evidence that he has in force and shall maintain during the course of the work, general liability insurance with limits of not less than \$500,000.00 per occurrence and \$1,000,000.00 in the aggregate, and property damage insurance of not less than \$1,000,000.00 per occurrence and in the aggregate.
- j. Removal of Signs, Guardrails, and Appurtenances. Signs, guardrails, and appurtenances within the Town right-of-way limits shall be removed and installed by Town personnel only. The applicant must give one (1) week's advance notice to the Director of Public Works or the Town Engineer for the removal of such signs, guardrails, and appurtenances that obstruct or interfere with the applicant's ability to perform the work and conditions of the permit. The cost of such removal and installation shall be borne by the applicant at cost and deducted from the construction/excavation security deposit.

#### **18.06 Ditch Maintenance**

- a. Section **18.06** shall apply to all property owners in the Town of Sheboygan owning property which abuts upon any ditch or natural water course which exists upon right-of-way or easements for road or drainage purposes in the Town of Sheboygan. Property owners shall maintain all such ditches or watercourses within fifty (50) feet of the property line of their property. In the event the right-of-way or easement is less than one hundred (100) feet wide and is bordered on two (2) sides by private property owners, each property owner shall be responsible for that one-half (1/2) of the right-of-way or easement adjacent to his property.
- b. Any property owner in the Town of Sheboygan who has property which abuts any ditch or water course as described above shall be responsible to maintain the watercourse and ditch to allow the free, open, and continuous flow of water through said ditch or watercourse.
- c. Where there occurs in any ditch or watercourse an accumulation or deposit of materials or vegetation, other than naturally deposited snow or ice, which obstructs, diverts, or blocks the continuous flow of water, temporary or otherwise, causing the water to back up or stagnate or to flow upon property of another or of the Town of Sheboygan outside of the area of the easement for the ditch or watercourse, the property owner responsible for the ditch or watercourse maintenance shall remove such blockage, obstruction, or materials causing diversion within forty-eight (48) hours of notice in writing from the Town of Sheboygan. If the owner of the property or premises fails to remove such blockage, obstruction, or diversion as required by this Section,

the Town of Sheboygan, under the direction of the Town Board and Director of Public Works, shall do the work, and the expense thereof shall be calculated and made a special tax upon the property adjacent to which the work was done pursuant to the above definition of areas of responsibility of the property owners.

- d. Ditches may be enclosed with the installation of an appropriately-sized pipe or culvert upon the request of the abutting property owners and the approval of the Town of Sheboygan Board of Supervisors. All costs for the installation and restoration of said enclosures, including engineering fees, shall be borne by the property owner(s) requesting the same. Recommendation on the project must be given by the Town's Engineer or the Director of Public Works prior to commencement of the work and must be inspected during the installation along with final inspection. All costs of clearing, ice removal, and other maintenance work shall be borne by the abutting property owners.

**18.07 Town Work Excluded-**The provisions of this Ordinance shall not apply to excavation work under the direction of the Town Engineer or the Director of Public Works, by Town employees, or contractors performing work under contract with the Town necessitating openings or excavations in Town roads.

**18.08 Excavation in New Road Limited: Emergency Excavations-**Whenever the Town Board determines to provide for the permanent improvement or repaving of any road, such determination shall be made not less than thirty (30) days before the work or improvement or repaving shall begin. Immediately after such determination by the Town Board, the Town Engineer or Director of Public Works shall notify in writing each person, utility, Town Department (including sanitary districts) owning or controlling any sewer, water main, conduit, or other utility in or under said road or any real property abutting said road of the pending permanent improvement or repaving. Any such owner or controller must undertake any desired excavation work in such road within thirty (30) days. After the Town provides permanent improvement or repaving, no permit shall be issued to open cut or excavate said road for a period of five (5) years after the date of improvement or repaving unless, in the opinion of the Town Engineer or Director of Public Works an emergency exists which makes it absolutely essential that the permit be issued. In the event of an emergency, any person or his agents or employees owning or controlling any sewer, water main, conduit, or utility in or under any road 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 shall apply for an excavation permit not later than the end of the next succeeding business day and shall not make any permanent repairs without first obtaining a permit hereunder.

**18.09 Obstructions and Encroachments**

- a. No person shall encroach upon or in any way obstruct or encumber any road, 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.
- b. Exceptions. The prohibition of Subsection (a) shall not apply to the following:
  - (1) Signs or clocks attached to a building which project not more than six (6) feet from the face of such building and which do not extend below any point ten (10) feet above the sidewalk, road, or alley.

- (2) Awnings which do not extend below any point seven (7) feet above the sidewalk, road, or alley.
- (3) Public utility encroachments duly authorized by state law or the Town Board.
- (4) Excavations and openings permitted under Sections **18.01** and **18.02**.
- c. No person shall allow, permit, or cause the accumulation of any materials in or upon the roadways or road ditches of the Town which in any manner obstructs the flow of water causing diversion of water from the ditch or causing the stagnation of water flowing therein.

**18.10 Snow Emergency Rules and Depositing of Snow on Public Right-of-ways Prohibited**

- a. Definition-  
A "town road" shall mean any road, street or alley located in the Town of Sheboygan over which the Town Board has care and supervision under Wisconsin Statutes.
- b. All Night and Snow Emergency Parking Prohibited-
  - (1) When signs have been erected at or reasonably near the corporate limits of the Town as provided in Wis. Stats. Sec. 349.13 no person shall park any motor vehicle on any improved street or road in the Town of Sheboygan between the hours of 12:00 a.m. and 6:00 a.m. except physicians and other emergency vehicles.
  - (2) When a snow emergency has been declared by the Town Chairperson or Vice Chairperson, all motor vehicles must be removed from the Town roads, and must remain off the Town roads until the roads have been cleared of snow.
- c. Parking Near Fire Hydrants Prohibited-  
There shall be no parking of motor vehicles within ten feet (10') of any fire hydrant located within the Town.
- d. Parking on Specific Town Roads Prohibited-  
When signs have been erected, there shall be no parking at times and locations designated by the Town Board, which include, but are not limited to the following:
  - (1) On the west side of Woodland Road, north of Superior Avenue and south of Mayberry Road and on the east side of Woodland Road, north of Superior Avenue and south of Woodland Meadows Drive.
  - (2) On any street in Windmor Subdivision, including Windmor Drive and Ridgemor Drive.
  - (3) On any street in the Stonefield Creek Subdivision.
- e. Prohibition. A person owning or occupying the whole or any part of a building or land abutting public streets in the Town of Sheboygan is hereby prohibited from moving snow onto such public streets at any time, unless such person has received permission from the Town to do so.
- f. Removal Required. A person owning or occupying the property shall remove such snow from the public streets within 24 hours after receiving notice from the Town. Failure of such person to comply with the notice constitutes a violation of this Section and in such event, the Town shall cause the snow to be removed and the cost thereof shall be charged to the property owner.

**18.11 Mailbox Damage**

- a. Mailboxes, driveway culverts, driveway surfaces (other than gravel), fences, trees or shrubbery, or any other item or object installed in the road

right-of-way, even if installed with the required Town permits, shall be maintained and replaced if damaged at the discretion and expense of the property owner.

- b. The Town assumes no responsibility for the replacement or repair of any such items where loss, damage, or injury to such items is the result of Town operations including maintenance, snowplowing, construction, or reconstruction of roadways or ditches, which work is being performed by the Town or the Town's contractor on the Town's road right-of-ways, road surfaces, and ditches.

#### **18.12 Street Privilege Permit**

- a. Permitted Purpose. Permits for the use of the roads, alleys, sidewalks, or public ways or grounds may be granted to applicants by the Town Board for the purpose of moving any building or structure or of encumbering the road, alley, sidewalk, or way with materials necessary for the construction or demolition of any building or structure, provided that such applicant has complied with the other requirements of the subsection and has obtained a building permit if required by the Code.
- b. Bond Required. No road privilege permit shall be issued until the applicant executes and files with the Town Clerk a bond in an amount determined by the Town Board conditioned that the applicant shall indemnify and save harmless the Town from all liability for accidents or damage caused by reason of operations under said permit and shall leave the vacated premises in a clean and sanitary condition and repair any and all damage to the roads, alleys, sidewalks, or public property of the Town resulting from such building, moving, or demolition operations.
- c. Fee. The fee for a road privilege permit shall be an amount set forth in section 11.05(24).
- d. Conditions of Permit. The permission to occupy or obstruct the roads, alleys, sidewalks, or public ways or grounds is intended only for use in connection with the actual erection, alteration, repair, removal, or relocation of buildings or structures and shall be given upon the following terms and conditions and subject to revocation without notice by the Town Board for violation thereof:
  - (1) Such temporary obstruction shall cover not more than one-third (1/3) of any road or alley.
  - (2) Obstructions shall be sufficiently lighted at night so as to be in full view of the public from all directions.
  - (3) The process of moving any building or structure shall be as continuous as practicable until completed and, if ordered by the Town Board, shall continue during all hours of the day and night.
  - (4) No building or structure shall be allowed to remain overnight on any road crossing or intersection or so near thereto as to prevent easy access to any fire hydrant.
  - (5) Buildings shall be moved only in accordance with the route prescribed by the Town Board.
  - (6) Upon termination of the work necessitating such obstruction, all parts of the roads, 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 road 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 direction of the Town Board.

- f. Penalty. In addition to any other penalty imposed, if the owner or occupant of the premises adjoining any unlawfully obstructed road shall refuse or neglect to remove such obstruction within twenty-four (24) hours after notice from the Town Board to do so, it shall be the duty of the Town Board to direct removal of such obstruction and make return of the cost and expense thereof to the Town Clerk who shall enter such cost on the next annual tax roll as a special charge against the property abutting such obstructed road, and such sum shall be levied and collected as other special taxes against real estate.

### 18.13 Road Reconstruction and Special Assessments

- a. Special Assessments. All special assessment taxes levied by the Town shall be paid by the owner of the property being assessed in the following manner, unless otherwise determined by the Town Board of Supervisors::
- (1) In equal annual installments over a period not to exceed ten (10) years unless extended by Town Board.
  - (2) The Town shall invoice the owner of the property. Interest shall run on all unpaid installments at the percentage rate determined by the Town Board of Supervisors.
  - (3) All property owners shall be responsible for fifty percent (50%) of any special assessments for reconstructing existing Town roads and drainage facilities affecting their property. The Town's standard method of calculating special assessments is the following formula:  
**Assessable Per Foot Cost X Assessable Frontage = Per Foot Assessment ÷ 2 = Owner Responsibility**  
The above-determined per-foot assessment shall then be applicable to assessable footage within the Town's jurisdiction for each such public works construction project. Any funding received by the Town for the project(s) shall be spread proportionally over the Town and assessable portions of the project. In the event the outside funding is applicable to only a portion of the project, the funding shall be applied to the particular item whether it is within the Town or assessable portion of the project.
  - (4) The Town Board may utilize the following assessment methods at its discretion based upon the circumstances of each special assessment project including but not limited to the following:
    - i. Front foot basis;
    - ii. Per parcel basis;
    - iii. Area-wide basis;
    - iv. Square foot basis;
    - v. Impervious surface (hydraulic acre) basis.
  - (5) A public hearing shall be held pursuant to Wis. Stat. secs. 66.0701 or 66.0703 as now in force and effect or as hereinafter amended prior to ordering the special assessments permitted by this Chapter and prior to the start of actual construction.
- b. Road Assessments. The Town assessment policy shall be as follows:
- (1) The Town reserves the right to determine the actual road profile.
  - (2) The Town shall resurface a Town road when the surface conditions warrant resurfacing. The Town shall attempt to adhere to a pre-determined schedule for resurfacing existing roads.
  - (3) The Town shall strive to resurface local roads on a scheduled basis assuming the life of an asphalt road is approximately twenty (20)

years. The Town shall utilize the Pacer Ware computer program to assist in determining which roads are scheduled for resurfacing. The Town shall consider resurfacing of a road when the Pacer Ware rating is a five (5) or below.

- (4) The Town shall assess affected property owners for fifty percent (50%) of the full cost associated with the installation of curb and gutter, pedestrian trails, or storm sewer pipe to a twenty-four (24) inches equivalent when these improvements are not currently in place. This assumes that the affected property owners are only paying for those infrastructure improvements that they do not presently enjoy.
  - (5) The Town Board reserves the right to determine when a road is reconstructed based on budgetary constraints.
- c. Stormwater Assessment. The Town shall assess for the installation of stormwater drainage pipes, ditches, swales, retention/detention ponds, and any other stormwater drainage facilities (collectively stormwater drainage facilities) as follows:
- (1) Assessment Area shall be defined as follows:
    - i. Any platted subdivision (development) to be served by the stormwater drainage facilities, or
    - ii. Any other area that is not a platted subdivision as determined by the Town Engineer or Director of Public Works which is to be served by the stormwater drainage facilities.
  - (2) The following items shall be assessed at fifty percent (50%) of the total cost to all property owners in the assessment area:
    - i. Storm sewer mains twenty-four (24) inches in diameter and less.
    - ii. Storm sewer manholes four (4) feet in diameter.
    - iii. All appurtenances including inlets, catch basins, yard drains, and leads.
    - iv. All roadway and lawn restoration costs.
    - v. Engineering, legal, and administrative fees.
    - vi. Storm sewer laterals for sump pumps (one sump pump lateral per parcel).
  - (3) Storm sewer mains greater than twenty-four (24) inches in diameter shall be assessed at fifty percent (50%) of the total cost attributable to the property under the following formula:  
$$\frac{\text{Cross-sectional area of 24-inch diameter pipe}}{\text{Cross-sectional area of the storm sewer pipe greater than 24-inch diameter pipe}} = \text{percentage of pipe cost to be assessed.}$$
  - (4) Storm manholes greater than forty-eight (48) inches in diameter shall be assessed at fifty percent (50%) of the total cost attributable to the property under the following formula:  
$$\frac{\text{Cross-sectional area of 48-inch diameter manhole}}{\text{the cross-sectional area of the manhole greater than 48-inch diameter}} = \text{percentage of manhole cost to be assessed.}$$
  - (5) Storm sewer shall be assessed on a front foot basis unless determined otherwise by the Town Board. Assessment rate is defined as total assessable cost divided by assessment frontage. Property owners shall be responsible for fifty percent (50%) of the total assessable cost. Assessable frontage shall be determined by the

same methodology used for street construction or reconstruction. Multiple fronted lots shall be assessed for frontages where storm sewer is installed in street right-of-way, even if storm sewer is not installed adjacent to the particular property. More than one sump pump lateral per parcel shall be individually charged to the particular parcel.

- d. Ditches. The Town shall assess fifty percent (50%) of the total cost attributable to maintaining its stormwater drainage system, including ditches, swales, retention/detention ponds and related facilities as provided above.
- e. Special Consideration. Applicable to pavement, curb, and gutter projects only is the following:
  - (1) Multi-fronted lots. Assessment shall be adjusted for multi-fronted lots in the following manner:
    - i. Frontage on any constructed side in excess of one hundred (100) feet shall receive a seventy-five percent (75%) forgiveness up to a maximum of one hundred (100) feet.
    - ii. This formula shall apply to each side of the lot.
  - (2) Prohibited access. Any lot with frontage on a road where access to said road is prohibited by a governing body shall have no assessment for the road reconstruction project as to that portion of the project dealing with pavement, curb, and gutter.
  - (3) Irregular lots. Triangular lots and lots on cul-de-sac streets shall be assessed for pavement, curb, and gutter projects only based on the following:
    - i. When special assessments are based upon a front foot basis, the frontage calculation for irregularly shaped lots shall be as follows:

When the actual frontage is more or less than the average width of a lot (measured by dividing the total lot area by the average depth), the frontage calculation for assessment purposes shall be based on average width, but in no event shall the assessment be for less than seventy-five (75) feet of frontage.
    - ii. The frontage calculation for triangular parcels of land shall be established by dividing the total lot area by the average depth of the adjoining parcels along the same frontage, but in no event shall the assessment be for less than seventy-five (75) feet of frontage.
  - (4) Non-Identified Lots. Non-identified-shaped lots shall be determined individually by the Town Board prior to assessment as applicable to pavement, curb, and gutter projects.
  - (5) Lot Splitting. If a multi-fronted lot is split into two (2) or more parcels prior to completion of construction and assessment, the newly-created interior lot(s) shall be subject to full frontage assessment without consideration for any credits under any of the above Section and Subsections.
- f. Special Considerations Not Applicable To New Developments. All of the above Sections and Subsections dealing with credits for multi-fronted lots, in particular Subsections **18.13a.** through e., shall not be applicable to new Town road construction as provided by Section **18.15.**
- g. Special Assessments Payable in the Event of Annexation.

- (1) Under the preceding Code Subsections of Section **18.13**, the Town shall bear a share of construction project costs. All final special assessment resolutions shall provide that as to each abutting property owner involved in a particular assessable construction project within the Town who bear any assessment for public improvements payable installments, the annual installments shall be increased by a proportionate share of construction project costs previously paid by the Town in those circumstances where an abutting property owner's property is annexed to a neighboring municipality and where said annexation takes place at any time during the period commencing from the date of adoption of the final special assessment resolution and when installment special assessments remain due and payable to the Town from abutting property owners. For those abutting property owners who have paid assessments in a lump sum, then the Town's proportionate share of the construction project shall also become then due and payable upon annexation.
  - (2) Any Town construction project costs previously paid by the Town and then assessed to an abutting property owner because of annexation under Subparagraph (1) above shall be computed by the Town and written notice thereof shall be given to the abutting property owner. The amount so computed and assessed shall be payable immediately.
  - (3) The report of the Town Engineer or Director of Public Works, available at the date of public hearing, following adoption of the preliminary special assessment resolution, shall set forth the application and projected additional assessment costs that may be caused by an annexation under the terms of Section **18.13g**.
- h. Nothing in this Ordinance shall be deemed as a waiver of the Town's ability to impose assessments in a manner consistent with Wisconsin law or other applicable law including but not restricted to the Town's ability to exercise its police powers under Wis. Stat. chs. 60 and 66.

**18.14 Parking Lot Restrictions-**Parking of automobiles or other motorized vehicles on private premises shall be so regulated as to not interfere with the use of any Town road or public right-of-way where parking lots or areas are located immediately adjacent to a public road or right-of-way, a physical divider shall be placed at the end of the parking lot or area adjacent to the public road to prevent invasion of the public right-of-way. Points of ingress or egress to private parking areas shall be plainly marked and no single parking area shall have more than one point of ingress or egress per one hundred (100) feet along such public road. The physical barriers shall not be less than two (2) feet above the parking lot surface. Applications for variations of the number or distance of points of egress or ingress may be granted in writing by the Town Board.

**18.15 New Town Road Construction Requirements**

- a. All new Town roads shall be constructed according to the standards of Wis. Stat. § 82.50 unless otherwise approved by the Town Board and the Wisconsin Department of Transportation.
- b. The Town shall accept Town roads by dedication or deed. Any person wishing to dedicate or deed a road to the Town must first obtain approval of the points of access to existing Town roads from the Town Board.

- c. The liability for accident or injury occurring upon any proposed roadway shall be the liability of the owner until either dedication or deeding are completed and accepted by the Town Board.
- d. Failure to obtain and comply with Town Board requirements shall constitute the basis for refusal to accept said dedication and/or deed. Roads shall not be maintained by the Town until dedication and the recording of the deed, plat, certified survey map, or other conveyance document are completed and accepted by the Town.
- e. All new Town public roads and streets shall be installed by private construction contract as more fully described below in Section 18.16, below.

**18.16 Private Construction of Town Roads**-Private construction of all new roads and streets intended to be dedicated as public shall be as follows:

- a. Development Agreement Required. Prior to the construction of any road or street in the Town intended to be dedicated as a public road or street, the developer or owner (hereinafter collectively referred to as “Developer”) shall enter into a Roadway Development Agreement or Development Agreement (hereinafter collectively referred to as Agreement) with the Town. The content and form of the Agreement may be modified on a case-by-case basis at the sole discretion of the Town Board and may include but is not limited to the construction of the following: storm sewers, drainage facilities, water mains, sanitary sewer, street lights, sidewalks, walking paths, aggregate base course, sub-grade, binder course, and final course of asphalt.
- b. The Agreement shall be approved by the Town prior to the commencement of construction of the street or road. The Agreement shall include but shall not be limited to the following provisions:
  - (1) The Developer shall provide a financial guarantee to the Town to pay for the cost of any and all phases of street construction the Developer intends to complete pursuant to the Agreement. The financial guarantee shall be approved by the Town prior to the commencement of construction of any portion of the street or road. The financial guarantee to the Town shall be provided in any of the following forms:
    - a. Irrevocable letter of credit; or
    - b. Escrowed funds with the Town.
  - (2) The financial guarantee described above shall be in an amount sufficient to pay for the entire construction costs of the road or street and contingencies as determined by the Town Engineer.
  - (3) Prevailing Wage Rate Compliance. The agreement shall require the Developer to comply with all prevailing wage rate laws and regulations applicable to the construction of any public works contemplated by the Agreement.
- c. Written Application Requirements. The Developer shall make written application to the Town for construction of a new road, including storm sewer indicating location use, name, type of surface, desired time schedule, indication of Plan Commission approval, and detailed construction plan. The construction plans must meet the Town requirements contained in Section 18.15, above, and be approved by the Director of Public Works and the Town Engineer. Further provisions concerning the written application to the Town shall be as follows:
  - (1) The plans shall include all drainage plans with roadway and property elevations.
  - (2) The Developer shall pay the Town Engineer’s fees for the plan review as described herein. Specifically, the Developer shall pay the Town

- costs for the plan review and review of the conceptual plan, preliminary plat, final plat, drainage, and street plans.
- (3) The Developer shall pay all applicable Town fees for submittal of the development plans, such as zoning application fees, plat or certified survey map approval fees, as set forth in section 11.05, the Town Fee Schedule, on file with the Town.
- (4) The Developer shall pay the total project costs. Total project costs shall consist of construction costs up to final paving, engineering and legal fees applicable to the project, costs for street signs, stop signs, speed limit signs, informational signs, and street lights. The developer shall pay the Town's Engineer costs and any other utility company costs related to the construction of the roadway as required, which said payments shall be made directly to the appropriate party (with copies verifying payment provided to the Town). Any and all costs incurred by the Town for the roadway construction, including engineering and legal fees, shall be billed by the Town to the Developer.
- d. Road Compliance. The private construction of all Town roads as described herein shall comply with all Ordinances, Resolutions, and requirements of the Town including applicable conceptual plans, preliminary plat approvals, and final plat approvals.
- e. Final Paving.
- (1) The road shall be constructed as described herein; however, the final paving shall be installed when seventy percent (70%) of available abutting property in the subdivision is developed or three (3) years, whichever comes first, unless otherwise approved by the Town Board.
- (2) In the event a minimum of twenty percent (20%) of the abutting land is not developed and the three- (3-) year time frame has lapsed as described above, the Town Board at its discretion may require final paving of the road in conformity with this Ordinance.
- (3) The Agreement may provide for an earlier final paving and curb and gutter than the time frames described above. However, the Agreement shall also include a waiver that the Developer and all owners shall accept full liability for premature failure of the bituminous paving and curb and gutter installation. Premature failure is defined as displacement or break-up of bituminous pavement within three (3) years of acceptance of roadway (through base course) by the Town Board.
- f. Exceeding Financial Guarantee. If the actual construction costs exceed the financial guarantee to the Town as described above, the difference shall be made up in either of the following ways:
- (1) On or before thirty (30) days from the date of notice from the Town to the Developer of a shortfall, the Developer shall provide an increase of financial guarantee to cover the increased cost; or
- (2) In the event the Developer does not provide the increased financial guarantee described above, then the increased cost amount shall be placed on the tax roll as a special assessment, which said assessment shall be split equally against all unsold lots within the affected subdivisions.
- g. Subdivision Improvement Agreement.
- (1) At the time of the signing of the Agreement, the Developer and all owners of all real estate properties in the development shall sign a

Subdivision Improvement Agreement relating to final paving and waiver of special assessment hearing.

- (2) The Subdivision Improvement Agreement shall include, among other things:
  1. that the actual costs of final paving and curb and gutter shall be assessed to abutting property owners by waiver of assessment, and
  2. all subdividers of final plats or persons offering a certified survey map for approval shall be required to enter into a Subdivision Improvement Agreement, relating to final paving and waiver of special assessment.
- h. Recording of Final Plat. At such time as the Developer signs the Roadway Development Agreement, Subdivision Improvement Agreement, and at such time as the Developer provides satisfactory financial guarantees to the Town as described above, then the Town shall execute the final plat for recording.
- i. Town Inspections. The Town Engineer, the Director of Public Works, or their designees shall have the sole discretion to inspect every phase of road and infrastructure construction including but not limited to installation of storm sewers, water mains, sanitary sewer, street lights, aggregate base course, roadway subgrade, binder course, and final course of asphalt.
- j. Notice of Deficient Construction. In the event during the roadway construction process the Town Engineer or his designee determines that there is inadequate construction or construction not in conformity with the submitted plans or not in conformity with the Town's standards and general specifications, then the Town Engineer or his designee shall provide written notice to the Developer. Upon receipt of the written notice, the Developer shall cease all future construction of the road until such time as the deficiencies are satisfied and corrected as determined by the Town Engineer. The Developer shall have fifteen (15) days to correct all deficiencies as described herein. In the event the fifteen- (15-) day timeframe is not met, the Town shall have the authority to make arrangements to have the deficiencies corrected, have the roadway properly constructed, and have the financial guarantees applied to the construction costs.
- k. Letter of Recommendation. Upon completion of all inspections of the Town Engineer as described herein if the road meets the plan specifications of roadway construction standards, the Town Engineer shall write a letter recommending acceptance as a Town road to the Town Board.
- l. Building and Occupancy Permits. Building permits may be issued after execution of all of the above-mentioned agreements and after financial guarantees have been provided to the Town. However, occupancy permits shall only be issued after acceptance of the roadway by the Town Board.

**18.17 Drain Water Discharge**-Every building and all parts thereof shall be drained so as not to cause dampness on the walls and ceilings. No downspout within six feet of adjoining property shall be pointed toward such property. Discharge from a downspout shall not create a nuisance. The downspout discharge shall be considered a nuisance in situations including, but not limited to, such discharge creating icing problems on streets, alleys or sidewalks, damaging a city street or sidewalk, creating ponds of standing water, or flowing over adjoining property.

**18.18 Sump Pump Discharge**-In areas where storm sewers are not available, sump pumps shall discharge onto the surface not closer than six feet of the adjoining property and shall be directed either to the rear lot line or to the street or to a

recorded drainage easement and shall not be directed as to flow on adjacent property. Discharge from the sump pump shall not create a nuisance. The sump pump discharge shall be considered a nuisance in situations including, but not limited to, such discharge creating icing problems on streets, alleys and sidewalks, damaging a street or sidewalk, creating ponds of standing water, or flowing over adjoining property.

**18.19 Drain Tile Discharge**-A written approval from the Town Engineer, Director of Public Works or his/her designee shall be obtained prior to any drain tile water being drained into Town right-of-way. The existing road ditch shall be cleaned and free of debris and brush a sufficient distance to provide adequate grade for water flow. The drain tile connection shall be directly into the ditch and rip-rap placed on each side of the tile two feet by four feet by eight-inch depth. In subdivisions where curbs exist, the property owner shall discharge various residential drain tile water on top of the ground and let the water flow on the ground surface a minimum travel distance of forty (40) feet from the road right-of-way line. Known drainage problem areas shall not be compounded, nor shall any new obvious drainage problems be created.

**18.20 Street Trees Within Road Right-of-ways**

- a. Purpose. This Ordinance shall regulate the placement of trees within the road right-of-way within the Town.
- b. Definitions. "Street trees" are defined as any and all trees, shrubs, bushes, and all other woody vegetation growing or planted between property lines on either side of the street, avenue, boulevard, alley, or other public right-of-ways within the Town.
- c. Street Trees Placement Prohibited. No street trees shall exist, be planted, or be placed upon any portion of the Town road right-of-way in any development which does not have storm sewer. In addition, no street tree shall exist, be planted, or be placed within any ditch in the Town.
- d. Street Tree Types.
  - (1) The following street trees shall **not** be planted:
    - Catalpa, Chinese Elm, White Poplar, Lombardy Poplar, Gingkobiloba, or any fruit tree
  - (2) The following street trees shall be allowed to be planted, placed, or exist within the Town right-of-way:
    - LOCUST**  
Continental Honey Locust, Skyline Honey Locust, Shademaster Honey Locust, Imperial Honey Locust, Halka Locust
    - MAPLE**  
Columnar Norway or Erectum Maple, Emerald Queen Maple, Cleveland Maple, Red Sunset Maple, Bowhall Maple, Sugar Maple, Crimson King Maple, Schwedler Maple, Jade Glen Maple, Summershade Maple, Superform Maple, Royal Red Maple, Green Mountain Maple, Parkway Maple
    - ASH**  
Hackberry, Autumn Purple Ash, Summit Ash, Marshall Seedless Ash, Patmore Ash, Rosehill Ash, Bergeson Ash
    - LINDEN**  
Redmond Linden, Littleleaf Linden, Greenspire Linden, Sentry Linden, June Bride Linden, Glenleven Linden

**OAK**

Pin Oak, Red Oak

**NUT**

All nut trees

- e. Maintenance and Liability. The owners of all street trees within the Town's road right-of-ways as described herein shall be responsible for the trimming and maintenance of the street trees within the right-of-way at the sole cost of the owner. Furthermore, the owners of all street trees within Town right-of-ways shall be liable for any and all damage, personal injury, or injuries resulting to property or person caused in any fashion by the street trees within the Town right-of-way and the property owner of the street trees shall hold harmless and indemnify the Town of Sheboygan from any and all liability whatsoever.
- f. Tree Spacing. Spacing of all street trees within Town right-of-ways shall be as follows:
  - (1) No street trees shall exist, be planted, or be placed closer than four (4) feet from any curb, street pavement edge, or sidewalk of any Town road within the Town in any development which has storm sewer. In storm sewer development only, street trees shall be allowed to be planted, placed, or exist within any other portion of the street right-of-way except for the four- (4-) foot area described above.
  - (2) All trees shall be spaced a minimum of forty (40) feet from one another.
  - (3) No street tree shall be planted closer than thirty-five (35) feet from any street corner measured from the point of the nearest intersecting curbs, curb lines, or pavement edges. No street tree shall be planted closer than ten (10) feet from any fire hydrant. No street tree shall be planted within ten (10) feet of any overhead utility wire or within five (5) lateral feet of any underground water line, sewer line, transmission line, or other utility.
- g. Prohibited Attachments. It shall be unlawful to attach any wire or rope to any street tree within the Town right-of-way without the permission of the Town Engineer or Director of Public Works. Furthermore, it shall be unlawful to attach any sign, advertisement, or notice to any street tree on any Town right-of-way.
- h. Tree Removal. The Town shall have the right to plant, prune, maintain, or remove any street trees located within the Town right-of-way at the Town's sole discretion for the general protection of the Town residents and to maintain the safety, welfare, and best interests of Town residents. The Town may remove or cause or order to be removed any street tree which is in an unsafe condition or which by reason of its nature is potentially dangerous and injurious to sewers, electric power lines, gas lines, water lines, or other public improvements or is infected with any disease or insects and shall order the property owner to remove the unsafe condition. In the event the property owner fails or refuses to remove the unsafe condition within thirty (30) days of notice from the Town, then the Town shall have the right to remove the unsafe condition at the sole cost and expense of the owner, and in the event the owner refuses or fails to pay the cost or expense, the Town may attach as a special assessment the cost or expense to the owner's real estate property as a special assessment.
- i. Stump Removal. All stumps of street 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.

## **18.21 Violations and Penalties-**

- a. Alternative Enforcement Options. Any person, firm, corporation, partnership, or any other entity violating any provision of this Ordinance may be subject to a written warning, administrative citation, judicial citation or a combination of enforcement options.
- b. Forfeitures For Judicial Citation. Judicial citations may be issued to any person, firm, corporation, partnership, or any other entity violating any provision of this Ordinance shall, upon conviction, forfeit a sum of not less than \$250.00 and not more than \$1,000.00 for each offense committed on each day, each day to be a separate violation, plus the costs of repair to correct any damage caused by said violation, plus the costs, fees, and surcharges imposed under Chapter 814 of the Wisconsin Statutes; and in default of payment of such forfeiture, cost of repair and cost of prosecution, shall be imprisoned in the County Jail until said forfeiture, cost of repair, and cost of prosecution are paid but not to exceed thirty (30) days.
- c. Administrative Citation. The person enforcing violations may elect to issue an administrative citation in lieu of a judicial citation as prescribed above. The administrative citation shall be issued on a form prepared by the Town. By the payment of the administrative citation, the recipient consents to the allegations of the violation but no record of conviction is created. Administrative citations issued for violations shall have an administrative assessment of Twenty-five Dollars (\$25.00) which must be paid, or contested by filing a written explanation of objection, with the Town Clerk within ten (10) days from the date of issuance of the citation. Failure to pay or contest the citation within ten (10) days may result in an additional penalty administrative assessment of Twenty-five Dollars (\$25.00) for a total administrative assessment of Fifty Dollars (\$50.00). Violators shall have an additional ten (10) days to pay the total citation or to contest the violation. Failure to make payment or to contest the citation may result in the issuance of a Judicial Citation as prescribed in subparagraph b. above.
- d. Administrative Citation Review. If the violator contests the administrative citation within ten (10) days of the issuance of the citation the Town Clerk or her designee shall place the administrative citation on the next available Town Board agenda for review and provide not less than 24 hour advance written notice of the meeting to the violator and the issuing officer. The Town Board upon review shall either vacate the citation or confirm the citation. If the citation is confirmed, the person shall have ten (10) days to pay the administrative citation assessment.
- e. Judicial Citations. Judicial citations may be issued where the person ignores a written warning or the administrative citation procedures prescribed above; refuses to pay the administrative assessment; or where the person continues to challenge the administrative citation issued; or at the option of the issuing officer in lieu of a written warning or the issuance of an administrative citation.

## **18.22 Snow and Ice Removal**

- a. Removal from sidewalks by owner.
  - (1) The owner, occupant or person in charge of any building fronting upon or adjoining any street and the owner or person in charge of an unoccupied dwelling or lot fronting any street shall clean the sidewalk in front of or adjoining such building or

unoccupied lot or dwelling, as the case may be, of snow and ice from such sidewalk with 48 hours after the precipitation that caused the accumulation of such snow and ice on the sidewalk ceases.

- (2) When ice has formed on any sidewalk that it is difficult or impossible to remove, the person referred to in subsection (a) of this section shall keep the sidewalk sprinkled with salt, sand or any other chemical ice remover.

b. Costs charged to property owners. The costs of clearing and removal of snow and ice from sidewalks shall be paid out of the town's general fund, which fund shall be reimbursed by the charges to be assessed as provided in this article against the owners of the lots and parcels of land abutting those portions of the sidewalks from which snow is removed.

c. Accounting. The director of public works shall keep an accurate account of the hourly equipment rental and labor costs of removing snow and ice from sidewalks in front of each lot or parcel of land abutting that portion of a sidewalk from which snow is removed. Such costs, plus an additional charge of 30 percent thereof for equipment repair, supervision and other general expenses and an additional minimum charge of \$10.00 for hand shoveling and mechanized work for snow removal from sidewalks, shall be charged to the owners of each of such lots or parcels of land. The director shall render statements of such charges to the property owners as soon as practicable.

d. Collection. The director of public works shall file a report with the Town Board on or before the first Monday of each November of the snow and ice removal charges remaining unpaid. Unless otherwise ordered by the Town Board, such unpaid charges shall be entered in the tax roll against the lots or parcels of land involved and collected as other taxes are collected.

e. Water from eaves. The owner of any building shall cause the pipes conducting the water from the eaves of the building to be so constructed as not to spread the water over the sidewalks.

Section 2. Severability. Should any portion of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder shall not be affected.

Enacted 8-17-2010

Amended 6-21-2011

Amended 11-19-2013

Amending Section 18.18 Enacted 10-15-2019