

Title 12

STREETS AND SIDEWALKS

Chapters:

- 12.08 Public Bid Requirements—Wage Scale
- 12.12 Grades
- 12.16 Street Widths
- 12.20 Driveways
- 12.24 Curbs and Gutters
- 12.28 Sidewalks
- 12.32 Portland Cement Concrete and Bituminous Concrete Paving
- 12.36 Improvements
- 12.40 Excavations
- 12.44 Obstruction, Encroachment and Injury
- 12.48 Hauling on City Streets
- 12.52 Snow Removal
- 12.56 Street Trees

Chapter 12.08

PUBLIC BID REQUIREMENTS—WAGE SCALE¹

Sections:

- 12.08.010 When bids are to be let.
- 12.08.020 When bids need not be submitted.
- 12.08.030 Wage scale established.

12.08.010 When bids are to be let. All public construction, the estimated cost of which exceeds twenty-five thousand dollars, shall be let by contract to the lowest responsible bidder; all other public construction shall be let as the council may direct. If the estimated cost of any public construction exceeds five thousand dollars, but is not greater than twenty-five thousand dollars, the board of public works shall give a class 1 notice, under Chapter 985, of the proposed construction before the contract for the construction is executed. This provision does not apply to public construction if the materials for such a project are donated or if the labor for such a project is provided by volunteers. The council may also by a vote of three-fourths of all the members-elect provide by ordinance that any class of public construction or any part thereof may be done directly by the city without submitting the same for bids. (Ord. 61-5294 §1, 2006, File No. 87-0336; Ord. 61-4609 §1, 1987.)

12.08.020 When bids need not be submitted. Unless otherwise specifically provided by action of the common council, all public work of the following classes, may hereinafter be done and performed directly by the city without submitting the same for bids:

- (a) Street construction, improvement, and repair;
- (b) Snow removal;
- (c) Sewer construction;
- (d) Construction and laying of water mains and water facilities;
- (e) Improvement and repair of public buildings;
- (f) Construction, improvement, and repair of culverts and bridges;
- (g) Sign and street marker painting;
- (h) Erection, construction, and repair of street signs;

¹ For statutory provisions pertaining to public works contracts, see § 62.15, Wis. Stats. For statutory provisions requiring cities to determine the wage scale to be paid by the contractor, see § 66.0903, Wis. Stats.

- (i) Erection, construction, and repair of street lighting. (Prior code §8.01(2).)

12.08.030 Wage scale established. Pursuant to Section 66.0903 of the Wisconsin Statutes, the city will establish and incorporate into its contracts for public works construction the prevailing wage rates as determined by the Wisconsin Department of Workforce Development for all trades and occupations required in the work contemplated. (Ord. 61-5388 §1, 2008, File No. 69-0314, Ord. 61-4247 §1, 1974; prior code §8.02.)

Chapter 12.12

GRADES²

Sections:

- 12.12.010 Establishment.
- 12.12.020 Altering grade prohibited.

12.12.010 Establishment. The grade of all streets, alleys, and sidewalks shall be established by the common council by resolution and shall be recorded by the clerk in his office. No street, alley or sidewalk shall be worked until the grade thereof is established. The grades of all streets having curb and gutter on the effective date of this code are established at the levels then existing. (Prior code §7.01(1).)

12.12.020 Altering grade prohibited. No person shall alter the grade of any street, alley, sidewalk or public ground or any part thereof unless authorized or instructed so to do by the common council, the engineer, or board of public works. (Ord. 61-4473 §7, 1980: prior code §7.01(2).)

² For statutory provisions authorizing cities to establish street grades, see § 62.16(1), Wis. Stats. As to sidewalk grades, see § 66.0907(2), Wis. Stats.

Chapter 12.16

STREET WIDTHS

Sections:

- 12.16.010 Minimum requirements
- 12.16.020 Exceptions.

12.16.010 Minimum requirements. The following shall be minimum requirements in the acquisition, laying out, improvement, construction or altering of any of the streets of the city:

(a) Property hereafter dedicated or otherwise conveyed to the city for street purposes shall provide for streets with a minimum width of sixty feet, and for alley purposes shall provide for alleys with a minimum width of fourteen feet.

(b) Residential Street Widths. New construction or reconstruction of residential streets shall provide for a roadway thirty-two feet to thirty-six feet wide, as measured between the faces of the curbs.

(c) Arterial Street Widths. New construction or reconstruction of streets designated as arterial streets shall provide for a roadway forty-two feet to fifty-two feet wide, as measured between the faces of the curbs. (Ord. 61-4516 §1, 1983.)

12.16.020 Exceptions. The common council may in any specific case, by written resolution duly adopted by the council, grant an exception from the requirements of this chapter. (Ord. 61-4439 §1, 1980; prior code §7.02(2).)

Chapter 12.20

DRIVEWAYS

Sections:

- 12.20.010 Permit required.
- 12.20.020 Application.
- 12.20.030 Concrete drive approaches required.
- 12.20.040 Width and distance.
- 12.20.050 Variances.
- 12.20.060 Maximum width.
- 12.20.070 Existing nonconforming driveways permitted.
- 12.20.075 Driveway grade and construction.
- 12.20.080 Access management on Grand Avenue.
- 12.20.090 Access management on West Stewart Avenue.
- 12.20.091 Amendments to access management plan.
- 12.20.100 Access management on Campus Drive, Badger Avenue, and North 14th Avenue.
- 12.20.101 Amendments to access management plan.

12.20.010 Permit required. No person shall alter or construct any drive approach over and across any sidewalk, boulevard or curbing of any street in the city without first securing a permit to do so from the engineering department. (Ord. 61-5377 §6 (part), 2008; Prior code §7.03(1).)

12.20.020 Application. Application for permit to construct a drive approach shall be made in writing to the engineering department and shall describe the property and the street where the drive approach will be constructed. (Ord. 61-5377 §7 (part), 2008; Prior code §7.03(2).)

12.20.030 Concrete drive approaches required. Where the street is improved with curb and gutter, concrete drive approaches shall be required. If the street is not improved with concrete sidewalks, the concrete drive approaches shall extend to the lot line. Exceptions may be granted by the capital improvements and street maintenance committee in those cases where lot lines are located at long or irregular distances from the curb line, such as on cul-de-sacs or curves. (Ord. 61-5002 §1, 1998; prior code §7.03(3).)

12.20.040 Width and distance. Driveways shall be no wider than thirty feet, or forty-two feet for duplexes with adjacent garages, at the sidewalk lines, and the nearest boundary of any driveway shall be at least ten feet from a corner crosswalk. Driveway widths in excess of thirty feet, or forty-two feet for duplexes with adjacent garages, may be permitted if approved by the city engineer, up to a maximum of forty-four feet. Driveways in excess of forty-four feet may be permitted if approved by the common council. The minimum width of new driveways shall be twelve feet, measured at the sidewalk line. Reconstructed or replacement driveways shall be a minimum of twelve feet wide, if possible, but may be less than twelve feet if there are obstructions such as trees or if the driveway is too close to the lot line, resulting in an off-center alignment. Any driveways which may cause concern regarding traffic flow or public safety shall be referred to a

council committee for review. When any person desires to have two driveways into the same property, there must be a distance of at least fifteen feet between the driveways. Where additional driveways in excess of two into any one property are desired, permission must be obtained from the common council. When property is located on a corner, the property owner may have a driveway or driveways entering the property from each street, provided, however, that if two driveways are provided for on one street, only one driveway will be allowed on the other street without special permission from the common council. (Ord. 61-5088 §1, 2000.)

12.20.050 Variances. The common council may authorize the employee assigned the duties and responsibilities of the sidewalk inspector to issue a permit for the construction or alteration of drive approaches not conforming to the provisions of this chapter, in the industrial districts, as duly designated under Title 23 (Zoning). (Ord. 61-5377 §8 (part), 2008; Prior code §7.03(5).)

12.20.060 Maximum width. It is unlawful to install any vehicle driveway in excess of fifteen feet in width, leading from Third Street from its intersection with Forest Street northerly to its intersection with Fulton Street, and no permit for any such driveway in excess of such width shall hereafter be issued. (Prior code § 7.04(1).)

12.20.070 Existing nonconforming driveways permitted. Private driveways now existing or said portion on Third Street, in excess of fifteen feet in width, may be continued in their present use, but shall not be extended in width, nor their use shall not be extended hereafter, and if their present use shall be discontinued for a period of ninety days, such driveways must be reduced in width to not more than fifteen feet. (Prior code §7.04(2).)

12.20.075 Driveway grade and construction. (a) For all new construction, upon issuance of a building permit the city engineering division will establish sidewalk grades at the property line. Prior to the construction of the building foundation, the owner or builder shall cause the drive approach to be filled or excavated to within three inches of the established sidewalk grade at the property line. The purpose of this requirement is to ensure the drive approach and driveway will be constructed at a proper grade to meet the future street and sidewalk.

(b) If during the course of construction the owner or builder is found to have violated this requirement, the building permit shall be withdrawn until compliance with this section is achieved.

(c) Prior to the construction of any portland cement concrete or bituminous cement concrete pavement which includes, but is not limited to, areas in which there are located sidewalks, driveways and drive approaches which abut or are within any public right-of-way, a grade/elevation will be established in the field by the city engineering division. The contractor shall submit a request to the city engineering division for grade/elevation and allow forty-eight hours subsequent to that submittal for such work to be completed. The purpose of this requirement is to ensure that all sidewalks, driveways and drive approaches are constructed at a proper grade/elevation to meet the proposed grade/elevation of the future street, sidewalk, driveway or drive approach construction. (Ord. 61-4687 §1, 1989; Ord. 61-4453 §1, 1980.)

12.20.080 Access management on Grand Avenue. In order to protect the public safety and improve the traffic carrying efficiency of Grand Avenue from its intersection with Kent Street south

to the south city limits, the following motor vehicle access control criteria are established for this section of Grand Avenue:

(a) Each parcel of land as identified by a separate tax key number in existence at the time of adoption of the ordinance codified in this section is entitled to one access onto Grand Avenue except if access is available to the property by an adjacent city street, then no additional access shall be provided directly onto Grand Avenue by way of a drive approach. The property will have access to Grand Avenue via the adjacent city street.

(b) Driveway widths for commercial land uses shall be twenty feet for one-way traffic and thirty to thirty-six feet for two-way traffic.

(c) Where an alley abuts a property and junctions with Grand Avenue, a driveway access to Grand Avenue may be installed in conjunction with the alley totaling thirty-six feet in order to provide improved ingress into the alley if a vehicle is waiting to exit.

(d) No opening other than at street intersections shall be provided in the nonmountable median on Grand Avenue with the following exceptions:

(1) An opening to allow northbound traffic only to cross the median and enter the north driveway at Lee's Famous Recipe Chicken Restaurant at 2412 Grand Avenue; vehicles exiting the property shall be prohibited from using this median opening;

(2) An opening to allow only traffic which is exiting from the driveway centered on the public alleyway between 2303 and 2312 Grand Avenue to cross the median to travel north; northbound traffic on Grand Avenue shall be prohibited from making a left turn at this median opening.

(e) No driveways other than those shown on the map entitled, Grand Avenue Access Management Plan, dated January 24, 1996, shall be allowed on Grand Avenue unless separate action by the common council approves said additional driveway.

(f) Nonconforming driveways or access. Driveways or other access to Grand Avenue existing on the date of adoption of the ordinance codified in this section may be continued in their present use, but shall conform to this section following reconstruction of Grand Avenue. These existing driveways may not be expanded in width or otherwise modified without a permit.

(g) Any person who violates this section shall, upon conviction thereof, forfeit not less than fifty dollars nor more than five hundred dollars together with the cost of prosecution. (Ord. 61-4936 §1, 1996.)

12.20.090 Access management on West Stewart Avenue. In order to protect the public safety and improve the traffic carrying efficiency of Stewart Avenue from its intersection with 18th Avenue to the intersection with 24th Avenue, the following motor vehicle access control criteria are established for this section of Stewart Avenue:

(a) The “Access Management Plan, Stewart Avenue—South 18th Avenue to South 24th Avenue” dated September 24, 1998, is adopted as a part of the ordinance codified in this section and is attached as a reference.

(b) All current and future land uses abutting West Stewart Avenue shall have driveway access to West Stewart Avenue limited to those locations shown on the attached Access Management Plan.

(c) No driveways other than those shown on the map entitled, “Access Management Plan Stewart Avenue—South 18th Avenue to South 24th Avenue,” dated September 24, 1998, shall be allowed on Stewart Avenue unless separate action by the common council approves such additional driveways.

(d) Where: 1) an existing “drive through” exists at a commercial property, or 2) established traffic flow at a commercial property requires a second (smaller) access, such access shall be limited to those locations shown on the access management plan.

(e) Shared access for adjacent driveways and/or properties shall be utilized if possible.

(f) In general, for land uses with two or more existing access to Stewart Avenue, the access(es) selected for closure shall create the greatest distance between remaining access points.

(g) Commercial driveway widths will be matched to what now exists, or shall be thirty to thirty-six feet wide. Exceptions may be granted where the use of a left-turn lane requires a wider driveway. One-way driveways for commercial properties shall be twenty feet wide. Residential driveway widths will be matched to the existing driveways up to sixteen feet maximum.

(h) When the residential dwellings south of Stewart Avenue between 21st and 24th Avenues are sold, demolished and/or zoned “commercial,” the existing driveway approach to each of those properties shall be obliterated and a single access driveway will be required for the total commercial development which will take place in the same area (i.e., a single commercial access driveway to serve the area between 21st Avenue and Applebee's Restaurant).

(i) No opening other than at street intersections shall be provided in the nonmountable median on Stewart Avenue unless specifically authorized by adoption of a revision to this section.

(j) Nonconforming Driveways or Access. Driveways or other access to Stewart Avenue existing on the date of adoption of this section may be continued in their present use, but shall conform to this section following reconstruction of Stewart Avenue. These existing driveways may not be expanded in width or otherwise modified without a permit.

(k) Any person who violates this section shall, upon conviction thereof, forfeit not less than fifty dollars nor more than five hundred dollars together with the cost of prosecution. (Ord. 61-5014 §1, 1998.)

12.20.091 Amendments to access management plan. (a) Amendment No. 1 dated September 12, 2000: The "Access Management Plan for Stewart Avenue—South 18th Avenue to South 24th Avenue, dated September 24, 1998" is amended as part of the ordinance codified in this section and the amendment is attached thereto as a reference.

(b) Amendment No. 2 dated September 23, 2003: The "Access Management Plan for Stewart Avenue—South 18th Avenue to South 24th Avenue, dated September 24, 1998" is amended as part of the ordinance codified in this section and the amendment is attached hereto thereto as a reference.

(c) Amendment No. 3 dated October 26, 2004: The "Access Management Plan for Stewart Avenue—South 18th Avenue to South 24th Avenue, dated September 24, 1998" is hereby amended as part of this ordinance and the amendment is attached thereto as a reference. (Ord. 61-5240 §1, 2004, File No. 95-0605; Ord. 61-5215 §1, 2003, File No. 95-0605; Ord. 61-5090 §1, 2000.)

12.20.100 Access management on Campus Drive, Badger Avenue, and North 14th Avenue. In order to protect the public safety and improve the traffic carrying efficiency of Campus Drive, Badger Avenue, and North 14th Avenue, the following motor vehicle access control criteria are established for those streets within the limits defined below:

(a) Limits for Access Control.

(1) Campus Drive: From the intersection with USH Business "51" easterly to the intersection with 11th Avenue.

(2) Badger Avenue: From the intersection with North 14th Avenue westerly to the termination of the public street.

(3) North 14th Avenue: From the intersection with Badger Avenue southerly to the termination of North 14th Avenue in a cul-de-sac approximately four hundred sixty feet (one hundred forty meters) south of Campus Drive.

(b) Access Management Criteria. The "Access Management Plan for Campus Drive, Badger Avenue, and North 14th Avenue, dated May 12, 1999," is adopted as part of the ordinance codified in this section and is attached hereto as a reference.

(c) All current and future land uses abutting those portions of Campus Drive, Badger Avenue, and North 14th Avenue within the limits defined under subsection (a) of this section shall have driveway access locations limited to those shown on the attached "Access Management Plan for Campus Drive, Badger Avenue, and North 14th Avenue, dated May 17, 1999."

(d) No driveways other than those shown on the map entitled, "Access Management Plan for Campus Drive, Badger Avenue, and North 14th Avenue, dated May 12, 1999," shall be allowed unless separate action by the common council approves said additional driveways.

(e) Where possible, shared driveway access shall be used to serve adjacent properties.

(f) Commercial driveway widths shall be thirty to thirty-six feet wide. One-way driveways for commercial properties shall be twenty feet wide. Exceptions may be granted by action of the common council to provide for wider driveway openings.

(g) No openings other than at street intersections shall be provided in the nonmountable median located on Campus Drive or North 14th Avenue within the access control limits described under subsection (1) of this section. (Ord. 61-5030 §1, 1999.)

12.20.101 Amendments to access management plan. (a) Amendment No. 1 dated June 13, 2000: the "Access Management Plan for Campus Drive, Badger Avenue, and North 14th Avenue, dated May 21, 1999," is amended as part of the ordinance codified in this section and the amendment is attached hereto as a reference. (Ord. 61-5073 §1, 2000.)

Chapter 12.24

CURBS AND GUTTERS

Sections:

12.24.010 Installation—Requirement waiver.

12.24.010 Installation—Requirement waiver. A curb and gutter shall be installed when a street is improved with permanent paving assessed to abutting properties, unless the common council determines that the general welfare and safety of the public does not require curb and gutter, after considering the characteristics of the neighborhood, including but not limited to the area drainage system, soil conditions, and street width. (Ord. 61-4427 §1, 1979.)

Chapter 12.28

SIDEWALKS³

Sections:

- 12.28.010 Width.
- 12.28.020 When required.
- 12.28.030 Cost of construction.
- 12.28.040 Construction specifications.
- 12.28.050 Cleaning of sidewalks.
- 12.28.060 Notice—Noncompliance.
- 12.28.070 Boulevards.
- 12.28.080 Duties and responsibilities of sidewalk inspector.

12.28.010 Width. The width of all sidewalk hereafter constructed in the city shall be regulated and determined as herein provided:

(a) Board of Public Works. The board of public works shall have full power and authority to prescribe the width of new sidewalks and replacements of old sidewalks. Where old sidewalks, or portions thereof, are in such state of disrepair so as to make it unsafe or impracticable, in the judgment of the board of public works, to repair the same, the board may order such sidewalk or portion thereof replaced with a new sidewalk of the same or different width;

(b) Standard Specifications. When no special order as to the width of the new or replacement sidewalk shall have been made by the board of public works, the width thereof shall be as follows:

(1) New sidewalks or replacement sidewalks.

(A) Sidewalks in business and commercial areas may be five to six feet wide depending on physical constraints and anticipated pedestrian traffic volume, as determined by the city engineer.

(B) Sidewalks in residential areas or along streets with less than sixty feet of right-of-way may be four to five feet in width depending on physical constraints and anticipated pedestrian traffic volume, as determined by the city engineer.

(C) In a business or commercial zone, or upon a specific petition from an owner in a residential zone, the board of public works may approve extending the sidewalk width from the property line to the curb where concrete curbing has been installed. Such extension of sidewalk width shall

³ For general provisions pertaining to sidewalks, see § 66.0907, Wis. Stats.

be only of concrete or, if approved by the board of public works, paving bricks, with construction according to the specifications of the city engineering department.

(Ord. 61-5092 §1, 2000.)

12.28.020 When required. (a) The board of public works may order sidewalks to be constructed where none previously existed, along any street, irrespective of whether the abutting lands have been improved, whenever in the judgment of the board the safety and welfare of the public requires it.

(b) It shall be the duty of the owners of all lands in the city to lay sidewalks along the streets abutting their lands, and to keep the same in good condition and repair. The board of public works may order any existing sidewalk or portion thereof, which in its judgment is unsafe or insufficient, to be repaired, replaced or removed. (Ord. 61-4844 §1, 1994; prior code §7.05(2).)

12.28.030 Cost of construction. All expenses and costs of construction, replacement or repair of any sidewalk shall be borne by the owner of the premises upon which such sidewalk abuts; provided:

(a) When replacement of a sidewalk is made necessary by a change of grade, the city shall pay a portion of the cost of the replacement sidewalk and entranceways to be determined by the board of public works, not exceeding the depreciated replacement cost of the replaced sidewalk increased by ten percent;

(b) The city shall pay the entire cost of crosswalks and intersection squares at intersections. (Prior code §7.05(3).)

12.28.040 Construction specifications. Specifications for construction of sidewalks and boulevard pavements and any amendments or supplements thereto shall be submitted to the common council by the city engineer, and, after approval by the council, all sidewalks and boulevard pavements shall be constructed in conformity therewith. An official copy of such specifications and any duly approved amendments thereof or supplements thereto shall be at all times on file in the office of the clerk, and shall be open to inspection or review by any person. A copy thereof shall be made available to any person desiring the same. (Prior code §7.05(4).)

12.28.050 Cleaning of sidewalks. The owner of property abutting on any sidewalk shall, without notice and at all times, keep such abutting sidewalk clean and free of debris, dirt, sweepings, obstructions and clear of snow and ice, and shall not deposit or place any sweepings or debris or other foreign matter upon the same. (Prior code §7.05(5).)

12.28.060 Notice—Noncompliance. (a) If the board of public works shall order a new sidewalk to be constructed or any existing sidewalk or portion thereof to be replaced, removed, or repaired at the expense, either in whole or in part, of the owner of the abutting property, notice in writing thereof shall be given to such owner under Section 66.0907(3)(c) of the Wisconsin Statutes.

Such notice shall be in the name of the board of public works, and shall be signed by the employee assigned the duties and responsibilities of the sidewalk inspector as the order of the board.

(1) Whenever any such owner shall neglect for a period of twenty days after such service, to lay, remove, construct, replace or repair any such sidewalk as required by such order, the city may do said work directly on force account, or may cause such work to be done, in either case at the expense of the owner;

(2) The cost of such work in front of each parcel of land shall, if not previously paid, be levied as a special tax against said parcel and collected as other taxes on real estate are collected, all as provided by the Wisconsin Statutes.

(b) If any owner shall fail or neglect to keep any sidewalk free of debris, obstruction, dirt, sweepings, snow and ice as provided by section 12.28.050, the city may proceed to clear such sidewalk and shall charge the expense thereof as a special tax against the premises to be collected as other taxes on real estate. The employee assigned the duties and responsibilities of the sidewalk inspector may, but shall not be required to, give notice to the owners of the property before providing for the city to clear such walks. (Ord. 61-5377 §9 (part), 2008; Prior code §7.05(6).)

12.28.070 Boulevards. The boulevard area is defined as follows: If there is no sidewalk present, then the boulevard area is that portion of street right-of-way lying between the property line and the edge of the traveled portion of the street, which may be delineated by curbing if the street is improved, or in the absence of curbing, may be the edge of a gravel or an asphalt surface.

If sidewalk does exist, then the boulevard is that portion of street right-of-way lying between the edge of the sidewalk and the edge of the traveled street as defined above.

The boulevard area shall be improved and maintained by the owner of the premises abutting thereon at such grade and in such condition as to provide adequate drainage of the sidewalks and of the boulevard area. The board of public works may order the improvement, leveling, grading, regrading or repair of any such boulevard and give notice thereof, all in the same manner as such orders and notices are given hereunder for laying and repair of sidewalks. If the owner does not, within twenty days after such notice, comply therewith and with such order, the city may proceed to do the work or cause the same to be done and the cost thereof shall be assessed as special tax against the abutting premises and collected as other taxes against real estate are collected. (Ord. 61-4904 §1, 1995; prior code §7.05(7).)

12.28.080 Duties and responsibilities of sidewalk inspector. (a) The employee assigned the duties and responsibilities of sidewalk inspector shall inspect all existing sidewalks in the city and all streets and portions thereof where sidewalks have not been laid and to make recommendations to the board of public works respecting the advisability or necessity of ordering the laying, repair, replacement, removing, widening or other work respecting any sidewalk or portion thereof in the city.

(b) The duties and responsibilities of sidewalk inspector shall be assigned by the director of public works, shall be performed by a person already employed in the department in conjunction

with the other duties of the assigned employee, and said employee shall receive no additional compensation therefor. (Ord. 61-5377 §10 (part), 2008; Ord. 61-5344 §1, 2007, File No. 07-0810; prior code §7.05(8).)

Chapter 12.32PORTLAND CEMENT CONCRETE AND BITUMINOUS CONCRETE PAVINGSections:

- 12.32.010 License required.
- 12.32.020 Application.
- 12.32.030 Board to prescribe rules.
- 12.32.040 Insurance required.

12.32.010 License required. No person shall construct, lay or rebuild any portland cement concrete or bituminous concrete pavement which includes, but is not limited to, areas in which there are located sidewalks, drive approaches, curb and gutter, and street surface which abut or are within any public right-of-way within the city without first having been licensed to do the same by the board of public works. A license fee specified in section 3.40.010(a) shall be submitted with an application for license to the city. (Ord. 61-5553 §21 (part), 2013, File No. 13-0309; Ord. 61-5052 §1, 1999; Ord. 61-4687 §2(part), 1989.)

12.32.020 Application. Any person desiring to construct, lay or rebuild any portland cement concrete or bituminous concrete pavement which includes, but is not limited to, areas in which there are located sidewalks, drive approaches, curb and gutter, and street surface which abut or are within any public right-of-way within the city, shall before engaging in said work make application to the board of public works for a license. A license shall be issued to the applicant authorizing such person to engage in the business of constructing, laying or rebuilding of said work within the city upon the execution of a bond in the amount of three thousand dollars in the form prescribed by the board of public works. (Ord. 61-4687 §2(part), 1989.)

12.32.030 Board to prescribe rules. The board of public works may make and prescribe such rules and regulations as they may deem necessary for the public interest concerning the manner of construction, laying or rebuilding of portland cement concrete or bituminous concrete pavement which includes, but is not limited to, areas in which there are located sidewalks, drive approaches, curb and gutter, and street surface which abut or are within any public right-of-way within the city, and they may make and prescribe standard specifications for the method of construction of said work. Any person licensed by the board of public works to construct, lay or rebuild said work within the city under the provisions of this chapter shall be subject to such rules and regulations as may be prescribed by the board of public works. (Ord. 61-4687 §2(part), 1989.)

12.32.040 Insurance required. Prior to the issuance of the required license, the applicant shall furnish satisfactory proof that he has obtained a policy of liability and property damage insurance in the amount of at least five hundred thousand dollars for each person, five hundred thousand dollars for each occurrence, and five hundred thousand dollars for property damage. Insurance coverage shall include a one million dollar excess limit umbrella policy. Evidence of such insurance shall be furnished by the applicant furnishing a certificate of insurance with a ten-day notice of cancellation clause to the clerk and such insurance shall be kept in force and effect at all

times. These limitations shall be subject to revision by the city at any time upon thirty days' notice to the contractor. (Ord. 61-4687 §2(part), 1989.)

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Chapter 12.36

IMPROVEMENTS⁴

Sections:

- 12.36.010 Procedure required.
- 12.36.030 Storm sewers required.
- 12.36.040 Prerequisites of permanent paving.
- 12.36.050 Street improvement.

12.36.010 Procedure required. The common council by resolution may cause the installation or construction of pavement, curb, gutter, sidewalk, street lights, mains, or laterals for sewage or water. Such resolution may be upon its own motion or as a result of petition. (Ord. 61-4371 §1, 1978.)

12.36.030 Storm sewers required. No curb and gutter shall be installed in any street unless connection with a storm sewer is first provided. (Prior code §8.03(3).)

12.36.040 Prerequisites of permanent paving. No permanent paving of any street shall be made or installed unless curb and gutter, sewer mains, water mains, and laterals be in place prior to such paving, except as the common council may otherwise direct. (Ord. 61-4371 §3, 1978; prior code §8.03(4).)

12.36.050 Street improvement. Whenever the common council shall determine to pave or macadamize any street in which a water main has not been laid, it shall be the duty of the city engineer to notify the water commission of such determination, and the commission shall thereupon determine whether or not a water main shall be laid in the same street before the same shall be improved. If the commission shall determine to lay a water main therein or if a water main has already been laid therein, it shall be the duty of the commission to determine what service connections shall be made with such main before the improvement of such street and the location thereof, and it shall be the duty of the commission to make such service connection. (Prior code §17.06.)

⁴ For statutory provisions pertaining to streets generally, see § 62.16, Wis. Stats.

Chapter 12.40

EXCAVATIONS⁵

Sections:

- 12.40.010 Permit required—Exception.
- 12.40.020 Form of application.
- 12.40.030 Notification of inspection department.
- 12.40.040 Report to utility.
- 12.40.060 Service outside the city.
- 12.40.070 Surety bond required.
- 12.40.080 Bond proceeds.
- 12.40.090 Appeal to common council.
- 12.40.100 Traffic control and barricades.
- 12.40.105 Compliance with OSHA Standards.
- 12.40.110 Trench backfilling.
- 12.40.120 Street replacement—Permanent and temporary—Payment.
- 12.40.140 Settlement of work performed.
- 12.40.150 Hours of work.
- 12.40.160 Compaction control test.
- 12.40.170 Revocation/Denial of permits.
- 12.40.180 No excavation during winter months.

12.40.010 Permit required—Exception. (a) An excavation permit shall be obtained from the plumbing inspector before any person shall excavate, dig upon or in, or remove any tree or material from any public right-of-way, including the traveled portion of any street, boulevard, sidewalk or any alley or other public grounds within the city. The permit shall be obtained by the excavating contractor. The fee for the permit shall be as specified in section 3.40.010(a). A separate permit shall be obtained for each separate excavation. All permits expire thirty days from the date of issuance.

(b) Contractors performing excavation work while under city contract are not required to obtain a separate excavation permit for that work unless specifically required by the city. (Ord. 61-5553 §22 (part), 2013, File No. 13-0309; Ord. 61-5094 §1(part), 2000, File No. 00-1134; (Ord. 61-4924 §1(part), 1995; Ord. 61-4875 §1(part), 1994; Ord. 61-4654 §1(part), 1988; Ord. 61-4546 (part), 1984.)

12.40.020 Form of application. (a) The application shall provide such information as shall be required thereon, including but not limited to:

⁵ For statutory provisions regulating the manner in which street use and excavation provisions may be extended, see § 66.0425, Wis. Stats.

Prior history: Ord. 61-4287.

- (1) The purpose of the proposed excavation;
 - (2) Location (legal description or street number) of the premises where the excavation is to be made;
 - (3) The name and address of the owner of the premises;
 - (4) The type of surfacing on the street in which the excavation is proposed to be made. Where paving bricks are encountered in any excavation, the city engineer shall be notified and may order the bricks to be salvaged;
 - (5) The maximum depth of the proposed excavation;
 - (6) The name, business address and telephone number of the applicant.
- (b) Such application shall contain the following:

The undersigned covenant(s) and agree(s) that in consideration of the issuance of the permit, he (she) agree(s) to and shall:

- (1) Comply with section 12.40.100, Barricades, so long as such excavation remains a hazard;
- (2) Open the excavation by neat saw joints where the surface course is masonry, concrete or asphalt;
- (3) Close the excavation and replace the surface of said street in accordance with section 12.40.110, Trench backfilling;
- (4) Indemnify the city of Wausau and save and hold the city free and harmless from and against any and all damages, losses, costs, claims, expenses, suits, demands, actions, and/or causes of action of any kind or of any nature which may be sustained, made, and/or occasioned to the city at any time by reason of damage or damages or injury to persons or property or death to any person, or by reason of any other liability imposed by law upon the city, as the result of and/or due to the actions of the undersigned and/or of anyone else relating to and/or pertaining to the excavation which is the subject of this permit, and/or as the result of and/or due to anything whatsoever relating to and/or pertaining to the aforementioned excavation; and the undersigned agrees that this indemnification and hold harmless specifically applies to, covers, and includes within its purview any and all of the city's officers, agents, employees, and/or designees; and specifically included within this indemnification and hold harmless are attorney's fees and other costs of defense which may be sustained and/or occasioned to the city, the city's officers, agents, employees and/or designees;

(5) Hereby release the city, and its officers, agents, employees, and/or designees from all damages, losses, costs, claims, expenses, suits, demands, actions, and/or causes of action of any kind or of any nature, whatsoever, which may result from undersigned's actions or anyone else's actions or from anything of any nature resulting from and/or pertaining to the excavation which is the subject of this permit;

(6) At its own expense, keep in full force and effect during the term of the excavation work and pertinent work thereto and until all hazards and/or potential hazards to the public have been removed and/or alleviated, a policy of comprehensive and general liability insurance covering personal injury and property damage, and such other insurance that may be necessary to protect the city herein from any claims and/or actions, without limiting its liability. Contractor agrees to carry and keep in force a policy of insurance the limits of which shall be at least five hundred thousand dollars for each person, five hundred thousand dollars for each occurrence, and five hundred thousand dollars for property damage. Insurance coverage shall include a one million dollar excess limit umbrella policy. All policies shall:

- (A) Be maintained with insurance carriers authorized to do business in the state of Wisconsin, satisfactory to city,
- (B) Include the city of Wausau as additional named insured,
- (C) Contain a provision waiving any subrogation right of the insurance company to recover damages against the city by reason of any sums paid by the insurance company under said insurance policies.

The foregoing minimum limits of insurance shall be subject to revision by city upon determination that adjustments are necessary for the protection of the city; and contractor agrees that it will adjust to and maintain said liability insurance in the revised amounts which may be prescribed from time to time by city.

Contractor will furnish city with a certificate of insurance certifying that the aforementioned insurance is in force during the entire period of this agreement, and will furnish additional certification of changes in such insurance, not less than ten days prior to any such change, and providing that no cancellation thereof shall be effective until after not less than thirty days of written notice of such cancellation has been given to city.

(Ord. 61-4566 §1(part), 1985; Ord. 61-4546 (part), 1984.)

12.40.030 Notification of inspection department. An applicant who has been issued a permit shall notify the city plumbing inspector of the date on which work will begin and the period of time required to complete the work. The plumbing inspector shall notify the street department, fire department and engineering office. No excavation authorized under this chapter may be initiated until such notification has been made by the applicant. (Ord. 61-4546 (part), 1984.)

12.40.040 Report to utility. Any person who shall uncover, strike, disturb or discover any pipe, conduit, casing or other object used to transmit gas, water, sewerage or electrical current, shall immediately report that fact to the utility whose interests are affected and the plumbing inspector before progressing further with the excavation or removal. If the plumbing inspector cannot be located immediately, another city employee in the engineering department shall be notified. Where there may be damage to life or property, the report shall also be made to the city police and fire departments. (Ord. 61-4546 (part), 1984.)

12.40.060 Service outside the city. Excavation permits, in order to provide services to premises outside the city, shall be issued only upon special order of the mayor. (Ord. 61-4546 (part), 1984.)

12.40.070 Surety bond required. The contractor shall execute and file with the clerk and keep in effect a corporate surety bond or cash in the minimum sum of three thousand dollars conditioned upon the timely and faithful performance of all requirements and conditions of any permits issued to the applicant. The effective period of the bond shall be a minimum of two years. (Ord. 61-4546 (part), 1984.)

12.40.080 Bond proceeds. The applicant shall, within a reasonable amount of time after verbal or written notification by city officials, correct violations of the permit. If there is a failure to correct such violations, particularly where a violation may endanger public safety, the city shall cause the violation to be corrected and shall bill the contractor for the actual cost thereof, plus liquidated damages of one hundred dollars. (Ord. 61-4546 (part), 1984.)

12.40.090 Appeal to common council. In the event any applicant is aggrieved by any action of any city officer or board in connection with the issuance of a permit, or in connection with the application of this chapter, the applicant may appeal pursuant to Chapter 68 of the Wisconsin Statutes. Notice of such appeal shall be made to the common council by filing notice within ten days after the applicant knows or should have known of such act. (Ord. 61-4546 (part), 1984.)

12.40.100 Traffic control and barricades. All traffic control barricades shall comply with the following standards:

(a) All required traffic control shall be performed in accordance with the Manual on Uniform Traffic Control Devices (MUTCD), including any amendments and /or revisions thereto, adopted by the State, and any necessary traffic rerouting shall be approved by the Engineering Department.

(b) Barricades and construction warning signs shall be constructed, marked and reflectorized in conformance with the Manual on Uniform Traffic Control Devices, including any amendments and/or revisions thereto, adopted by the State.

(c) Each barricade shall have the excavating contractor's name, address and telephone number marked prominently thereon, or that of an authorized barricade rental agency. The

telephone number shall be such that the contractor or an authorized representative can be reached twenty-four hours a day. (Ord. 61-5455 (part), 2010) Ord. 61-4546 (part), 1984.)

12.40.105 Compliance with OSHA Standards. The contractor shall perform all excavation work in compliance with applicable OSHA Standards. (Ord. 61-5455 (part), 2010)

12.40.110 Trench backfilling. The trench backfilling shall be accomplished as follows:

(a) The backfill from the bottom of the pipe to an elevation one foot above the pipe shall be fine granular material carefully placed by hand and well tamped to fill completely all the spaces under and adjacent to the pipe so as to form a bed that will preclude subsequent settlement. Compaction shall achieve at least ninety-five percent of maximum dry density at optimum moisture as determined in accordance with the Method of Test for the Moisture-Density Relations of Soils, AASHTO Designation T 180-74.

(b) The remainder of the backfilling may consist of suitable native soils with proper moisture content for maximum compaction. The contractor shall have at the job site a vibratory type compactor before starting to backfill. The backfill shall be uniformly compacted, to at least ninety-five percent maximum dry density at optimum moisture as determined by the Method of Test for Moisture-Density Relations of Soils, AASHTO Designation T 180-74.

(c) All roots, debris, rocks greater than six inches in diameter, frozen material, or other unsuitable materials which in the opinion of the city engineer or plumbing inspector may cause interference with the compaction requirements shall not be used in the backfill and shall be disposed of elsewhere by the contractor. Unsuitable materials shall be replaced with suitable granular materials approved by the engineer or plumbing inspector. (Ord. 61-4546 (part), 1984.)

12.40.120 Street replacement—Permanent and temporary—Payment. (a) Anyone who excavates in the public right-of-way shall be responsible for trench backfilling and the replacement of curb and gutter, sidewalks, drive approaches and boulevards, and either permanent or temporary street repairs.

(1) Trench backfilling shall be in accordance with section 12.40.110.

(2) The replacement of sidewalks, curb and gutter, drive approaches and boulevards shall be in accordance with Chapter 12.32 and also in accordance with specifications set forth by the appropriate city official.

(b) Permanent Street Repair. Following trench back-filling, major utility companies including but not limited to Wisconsin Fuel and Light Company, General Telephone Company, Wisconsin Public Service Corporation, and the Wausau Sewerage and Water Utility and their subcontractors shall be responsible for the backfilling of the trench and the permanent pavement repair as described below.

(1) Asphalt Pavement with Gravel Base or Cement Stabilized Base. The compacted trench backfill shall be completed to an elevation about eleven inches

below the existing pavement surface followed by an eight-inch thickness of compacted gravel, state gradation #2, and a minimum three-inch thickness of bituminous concrete surface. The surface shall be placed and compacted in two lifts.

(2) Concrete Pavement. The compacted trench backfill shall be completed to an elevation approximately fifteen inches below the existing pavement surface. Then seven inches of gravel, state gradation #2, shall be compacted in place, followed by the placement of eight inches of portland cement air-entrained concrete, minimum four thousand psi, six bag/cy mix with $6 \nabla 1 \frac{1}{2}\%$ air. The city engineering department shall be notified prior to placing the concrete.

(3) Asphalt Pavement with Concrete or Brick Base. Repairs shall be made in accordance with the procedures under subsections (1) and (2) above, or a combination thereof, as directed by the city engineer.

(4) Brick Streets. The street shall be permanently repaired as in subsection (2) above, except where the city designates the brick street shall be preserved, then the brick shall be replaced over compacted base course or lean concrete base in a manner and with materials acceptable to the city engineer.

(c) Temporary Street Repair. All excavators, except the major utility companies and their subcontractors, shall be responsible for completing the trench backfilling in accordance with section 12.40.110, and in addition shall be responsible for placement of a minimum two-inch thick bituminous concrete repair patch over the street excavation. Repairs shall be made as follows:

(1) Gravel Surface. The contractor shall complete the compacted backfill to an elevation six inches below the finished street grade and immediately place six inches of compacted gravel surface course equal in quality to that which is existing.

(2) Asphalt, Sealcoat, Concrete, or Brick Pavement.

(A) The contractor shall complete the compacted backfill to an elevation two inches below the finished street grade and immediately place a minimum of two inches of compacted bituminous concrete surface course thereon.

(B) Immediately after placement of the surface course, the area shall be cleaned and left in a safe and satisfactory manner and the street opened to traffic.

(d) Payment for Permanent Street Repair.

(1) Where temporary repairs have been placed, the city will construct the permanent street repairs. The excavator shall be responsible for all other repairs to the sidewalk, boulevard, and curb and gutter.

- (2) Payment for permanent street repairs will be determined by the area of the repair multiplied by a cost per square yard for the type of construction involved. A schedule of repair costs shall be adopted by the common council and maintained by the city clerk or city engineer.
- (3) The contractor shall notify the city engineering department when the excavation is opened and a measurement of the area shall then be taken, allowing for sawcuts to neat lines if not already sawed by the excavator.
- (4) The cost shall then be computed and billed to the excavator. Failure to pay any invoice within sixty days shall result in a suspension of further excavation permits until remittance is made in full. (Ord. 61-4546 (part), 1984.)

12.40.140 Settlement of work performed. Settlement of the street surfacing, curb and gutter, sidewalks, drive approaches or boulevards (regardless of who installed same) within one year from the date of trench backfilling shall be construed as evidence of poor compaction, and the contractor who backfilled the trench and the surety shall be responsible for the cost of the replacement of the street surfacing, curb and gutter, sidewalks, drive approaches or boulevards. If, after both contractor and the surety have been given notification by the city, the contractor fails to recompact the backfill and replace the inferior work, the city shall perform the work and bill the contractor or the surety for the actual cost thereof (plus liquidated damages of one hundred dollars.) Each successive replacement by the contractor shall be subject to satisfactory performance for a period of one year. (Ord. 61-4546 (part), 1984.)

12.40.150 Hours of work. The contractor shall not begin any excavation in travel lanes of any arterial street within the city before 9 a.m. and shall have such excavation backfilled and barricades removed before 4 p.m. If underground work cannot be completed by 4 p.m., the contractor shall make provisions to place a temporary bridge over the excavation that will allow traffic to utilize the travel lane, unless specific permission is granted by the city engineer to allow barricades to remain. (Ord. 61-4546 (part), 1984.)

12.40.160 Compaction control test. The city shall perform compaction control tests at such frequency and at such depths as the city engineer deems necessary to verify compliance with the compaction requirements.

The contractor shall furnish such materials, labor and equipment deemed necessary by the city engineer in order to obtain the necessary compaction test soil samples. (Ord. 61-4546 (part), 1984.)

12.40.170 Revocation/Denial of permits. If any contractor fails to fulfill the requirements of this chapter, an excavation permit may be revoked, and the contractor's performance shall be considered by the board of public works before further excavation permits are granted. If the contractor's record indicates substantial disregard of provisions of this chapter, either wilfull or otherwise, excavation permits may be denied. (Ord. 615455 (part), 2010; Ord. 61-4546 (part), 1984.)

12.40.180 No excavation during winter months. Except as necessary for utility repair or in unusual circumstances, no excavation permits will be issued for city streets during the period of time when the frost depth exceeds approximately thirty inches, generally the period between January and April. Excavations permitted during this period shall be backfilled with unfrozen material and shall have a temporary asphalt patch. (Ord. 61-4546 (part), 1984.)

Chapter 12.44

OBSTRUCTION, ENCROACHMENT, AND INJURY⁶

Sections:

- 12.44.010 Injuries to streets and sidewalks.
- 12.44.020 Obstructions and encroachments prohibited.
- 12.44.030 Obstruction by railroads.
- 12.44.035 Prohibiting roller skates, skateboards, and scooters.
- 12.44.040 Exceptions.
- 12.44.050 Street privilege permit.
- 12.44.060 Removal by city.

12.44.010 Injuries to streets and sidewalks. No person shall operate a vehicle or machinery or otherwise conduct himself so as to cause or have a reasonable probability of causing injury to the streets or sidewalks. (Prior code §7.09.)

12.44.020 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 section 12.44.040. (Prior code §7.10(1).)

12.44.030 Obstruction by railroads. No person shall obstruct any street or alley so as to interfere with traffic thereon with a railroad locomotive or car for a period longer than five minutes. The penalty for violation of this section shall be not less than twenty dollars nor more than one thousand dollars. (Ord. 61-4978 §1, 1997; prior code §7.10(2).)

12.44.035 Prohibiting roller skates, skateboards, and scooters. (a) No person shall ride, push or travel upon roller skates, skateboards or scooters, as defined in this section, on any portion of public or private property as set forth in this section:

- (1) Any city street, sidewalk, or other public property located in the business district in downtown Wausau, bounded on the north to include the sidewalk north of Grant Street from its intersection with the sidewalk on the east side of Fifth Street to the sidewalk on the west side of First Street; on the west to include the sidewalk west of First Street from Grant Street to the sidewalk south of Forest Street; on the south to include the sidewalk south of Forest Street from First Street to the sidewalk east of Fifth Street; on the east to include the sidewalk east of Fifth Street from Forest Street to Grant Street;

⁶ For statutory provisions requiring contractors doing work in streets to put up barriers, etc., see § 62.15(11), Wis. Stats. As to street privileges, see § 66.0425, Wis. Stats. As to rights of abutting owners to be free of obstructions, see § 80.47, Wis. Stats.

- (2) The city-operated parking ramps known as the “Sears ramp,” “Penneys ramp,” “McClellan Street ramp,” and “Jefferson Street ramp”;
 - (3) On private property unless permission has been given by the owner, lessee or other person in charge of the property.
 - (4) Outside of the area designated as the downtown business district, on any city street, except that those skates commonly referred to as “Rollerblades” or “in-line skates” are allowed on those streets where sidewalk is not available.
 - (5) Any park building or facility not specifically intended for such use including, but not limited to, tennis courts, benches, tables, bleachers or on docks and piers adjacent to any boat landing, except in designated areas and in accordance with posted regulations.
 - (6) The transit center property bounded by Jefferson, North Sixth, Washington, and North Fifth Streets.
- (b) As used in this section:
- (1) “Roller skate” shall be defined to be a frame made of any material fitted to the sole of a shoe to which is attached a runner or set of wheels for gliding over a surface other than ice, and which specifically includes those skates commonly referred to as “Rollerblades” or “in-line skates.”
 - (2) “Skateboard” means a board made of any material to which is attached a set of runners or wheels for gliding over a surface other than ice upon which a person stands in order to propel such board with either foot over a surface while standing on the board.
 - (3) “Scooter” shall be defined to be a foot operated vehicle consisting of a narrow footboard mounted between two wheels tandem with an upright steering handle attached to the front wheel.

(Ord. 61-5293 §1, 2006, File No. 01-0414; Ord. 61-5207 §1, 2002, File No. 01-0414; Ord. 61-5177 §1, 2002, File No. 01-0414; Ord. 61-5117 §1, 2001, File No. 01-0414; Ord. 61-5109 §1, 2001, File No. 01-0414 Ord. 61-4781 §1, 1992; Ord. 61-4620 §1, 1987.)

12.44.040 Exceptions. The prohibitions in section 12.44.020 shall not apply to the following:

- (a) Ordinary projection of sills, belt course, cornices, pediments and like architectural features constructed after April 1, 1978, shall project not more than four inches into the airspace above the public lands, except, that at elevations in excess of eight feet above the public lands, they may project into the airspace not more than eighteen inches.

(b) Ornamental designs, alterations and overhangs, such as mansard roofs, not designed, intended or likely to result in drainage of the principal roof, shall not project into the airspace over the public lands more than eighteen inches, and shall be at elevations more than eight feet above the public land.

(c) Signs, their housings, enclosures, supports and structure shall conform to the criteria in Titles 15 and 23.

(d) Awnings which do not extend below any point seven feet above sidewalk.

(e) Canopies in a B-4 zoning district.

(1) Height of a canopy on the ground floor shall not extend below seven feet nor above twelve feet over the finished sidewalk level.

(2) Canopies shall not extend over seven feet into the right-of-way. However, canopies placed in front of a building's main entries may extend to within eighteen inches of the building's side of the curblin providing the canopy is within the above height restrictions. Supporting members shall not be located within the right-of-way unless approved by the board of public works.

(3) Canopies may be placed over the upper-story windows.

(4) Canopies shall be constructed of noncorrosive metal framing members and shall be constructed to carry loads of forty pounds per square foot.

(5) Skin materials shall be specifically designed for canopy use and shall be restricted to the following:

(A) Teflon coated fiberglass;

(B) Vinyl coated polyester;

(C) Mildew resistant treated canvas;

(D) Sun-yellowing-resistant acrylic skylights of a light bronze tint placed in a watertight extruded aluminum dark bronze anodized frame;

(E) Other suitable material.

(6) All canopies, together with all their supports, braces, guys, posts and anchors shall be kept in repair and in a proper state of preservation. The building inspector may order the removal, by the person maintaining any canopy, of any canopies that are not maintained in accordance with the provisions of this chapter and if said order

is not complied with, may effect such removal and collect the cost thereof from the person maintaining such canopy.

- (7) A building permit shall be required.
- (f) Public utility encroachments duly authorized by state law or the common council.
- (g) Goods, wares, merchandise or fixtures being loaded or unloaded which do not extend more than three feet on the sidewalk, provided such goods, wares, etc., do not remain thereon for a period of more than two hours.
- (h) Temporary encroachments or obstructions authorized by permit under section 12.44.050.
- (i) Excavations and openings permitted under Chapter 12.40.
- (j) Christmas decorations approved by the electrical inspector.
- (k) Trash receptacles which have been approved by the zoning administrator. No person, firm or corporation shall place such a receptacle without first having secured necessary insurance to protect the city from any loss, damage or injury that may result from the use or maintenance of the trash receptacles.

If the trash receptacles are not properly maintained, approval for their continued use may be withdrawn by the zoning administrator. Any unapproved trash receptacle shall be removed from the city sidewalks forthwith.

(l) Public telephones and booths. The number and location of these devices shall be as determined by the capital improvements and street maintenance committee of the common council. No such devices shall be installed until a proposal indicating the location of the device and what type of installation is proposed has been reviewed and approved by the capital improvements and street maintenance committee. Recommendations of the capital improvements and street maintenance committee must be approved by the common council. Permission to install devices under this section in no way grants the permittee an easement for the continued use of such device on the public right-of-way. Any permission granted pursuant to this section is subject to revocation by the common council at its discretion.

(m) Streets or portions of streets in the central business district may be closed for periods not to exceed twenty-four hours for the purpose of street sales, promotions and the like. Such street closings shall be made only upon the consent of the public health and safety committee, and the chief of police or his or her designee.

(n) Publicly owned and leased buildings, barricades, signs, hoses, equipment, vehicles or other obstructions, placed at the direction of authorized public officials or employees, subject to any prohibitions or limits elsewhere in this code, or in state or federal statutes, rules or regulations. (Ord. 61-5705 §15(part), 2016; Ord. 61-5097 §(part), 2000, File No. 00-1137; Ord. 61-4559 §1,

1984; Ord. 61-4525 §1, 1983; Ord. 61-4360 §1, 1978; Ord. 61-4133 §1, 1969; Ord. 61-4121 §1, 1969; Ord. 61-4086 §1, 1968; Ord. 61-408 §1, 1966; prior code §7.10(3).)

12.44.050 Street privilege permit. (a) Granting. Permits for the use of the streets, sidewalks, public ways or other public grounds of the city may be granted to applicants by the director of public works and utilities, or a designee, for the purpose of moving any building or structure, or encumbering such public grounds with materials, equipment or structures.

(b) Bond. Prior to issuing a permit, the director of public works and utilities shall determine if a bond is required in order that the provisions of subsection (e) be obtained out of the proceeds of such bond. The amount of any bond required shall be in the sole discretion of the director.

(c) Insurance. The applicant shall file a certificate of insurance the policy limits of which shall be at least five hundred thousand dollars for each person, five hundred thousand dollars for each occurrence, and five hundred thousand dollars for property damage. Insurance coverage shall include a one million dollar excess limit umbrella policy.

(d) Fee. The fee shall be as specified in section 3.40.010(a).

(e) Conditions of Occupancy. The use of the public grounds shall be as stated in the permit, and is subject to the following terms and conditions, including revocation without notice for violation thereof, by the director of public works and utilities:

(1) A temporary obstruction shall cover only that portion of the public grounds as set forth in the permit.

(2) The obstructions shall be adequately barricaded and lighted so as to be in full view of the public from all directions.

(3) If sidewalk use by pedestrians is interrupted, temporary sidewalks, guarded by a fence or other structure, may be required 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 director of public works and utilities, shall continue during all hours of the day and night.

(5) No building or structure shall remain overnight on any street-crossing or intersection or where it prevents access to any building by emergency vehicles.

(6) Buildings shall be moved only along the route prescribed by the director of public works and utilities.

(7) Upon termination of the work necessitating such obstruction, all parts of the public grounds occupied under the permit shall be vacated, cleaned of all rubbish and obstructions; restored to a condition reasonably similar to that prior to the permittee's

occupancy, but in all cases placed in a safe condition for use by the public, at the expense of the permittee.

(f) Termination. All street privilege permits shall automatically terminate at the end of three months from the dates of issuance unless some other date is specified thereon by the director of public works and utilities.

(g) Exception. Holders of current permits issued them pursuant to Section 348.27 of the Wisconsin Statutes, may exercise the privileges granted therein without obtaining a moving permit. (Ord. 61-5375 §1, 2008; Ord. 61-4566 §1(part), 1985; Ord. 61-4448 §1, 1980; Ord. 61-4440 §1, 1980; Ord. 61-4418 §1, 1979.)

12.44.060 Removal by city. In addition to any other penalty imposed, if the owner or occupant of the premises adjoining any unlawfully obstructed sidewalk refuses or neglects to remove such obstruction within twenty-four hours after a city official or employee has ordered such removal, it shall be the duty of the board of public works to remove such obstruction and make return of the cost and expense thereof to the clerk who shall enter such cost on the next annual tax roll as a special charge against the property abutting such obstructed sidewalk, and such sum shall be levied and collected as other special taxes against real estate. (Ord. 61-5553 §23 (part), 2013, File No. 13-0309; rd. 61-4418 §2, 1979; prior code §7.10(5).)

Chapter 12.48

HAULING ON CITY STREETS

Sections:

- 12.48.010 Garbage and refuse.
- 12.48.020 Logs.
- 12.48.030 Cleaning.
- 12.48.040 Dumping of sewer clogging materials prohibited.

12.48.010 Garbage and refuse. No person shall haul any garbage, refuse, debris, ashes, lime or sulphate sludge from the paper mills, or other materials which are liable to be blown away by the wind or drop from the conveying vehicle to the street, through or over any streets of the city without having such materials securely covered in such a manner that no part thereof can fall or drop upon the streets of the city. (Prior code §7.11(1).)

12.48.020 Logs. No person shall haul logs or pulpwood upon any of the public streets of the city, unless the logs or pulpwood are securely wired, staked or chained so as to prevent them from falling from the transporting vehicles. (Prior code §7.11(2).)

12.48.030 Cleaning. Any person transporting material which shall fall from the transporting vehicle onto a public street shall remove or cause to be removed such material or the superintendent of public works shall cause the same to be removed and the cost thereof reported to the clerk, who shall assess such cost against the owner of the vehicle. (Prior code §7.11(3).)

12.48.040 Dumping of sewer-clogging materials prohibited. No person shall dump concrete washings, sand or gravel, waste oils or other clogging material into sewer catch basins. (Prior code §7.11(4).)

Chapter 12.52

SNOW REMOVAL⁷

Sections:

- 12.52.010 Duties and responsibilities of the sidewalk inspector.
- 12.52.020 Placing snow on streets, alleys or boulevards.
- 12.52.030 City snow removal at expense of property owner.

12.52.010 Duties and responsibilities of the sidewalk inspector. The authority and duties regarding snow and ice on sidewalks assigned to the board of public works by Section 66.0907(5) of the Wisconsin Statutes are assigned and delegated to the employee of the city assigned the duties and responsibilities of the sidewalk inspector. (Ord. 61-5377 §11(part), 2008; Ord. 61-4276 §1(part), 1975.)

12.52.020 Placing snow on streets, alleys or boulevards. No person shall deposit, or cause to be deposited, snow upon any public street or alley. Snow removed from driveway approaches and public sidewalks may be deposited on the boulevard area. (Ord. 61-4583 §1; 1985; Ord. 61-4276 §1 (part), 1975.)

12.52.030 City snow removal at expense of property owner. When a property owner or occupant refuses to obey an order of the employee assigned the duties and responsibilities of the sidewalk inspector regarding the removal of snow and/or ice as required by Section 66.0907(5) of the Wisconsin Statutes, the city may remove the snow and/or ice from the sidewalk abutting or adjacent to the property and charge the property owner for such removal. In the event the owner fails to pay such charges, they shall be added to the tax roll, and the charges will be collected as delinquent taxes are collected. (Ord. 61-5377 §12 (part), 2008; Ord. 61-4276 §1(part), 1975.)

⁷ For statutory provisions authorizing cities to require abutting owners to keep sidewalks clear of snow and ice, see § 66.0907(5), Wis. Stats.

Chapter 12.56

STREET TREES⁸

Sections:

- 12.56.010 Purpose.
- 12.56.020 Definitions.
- 12.56.030 City forester.
- 12.56.040 Damage to trees and shrubs.
- 12.56.050 Fastening materials to trees and shrubs.
- 12.56.060 Permit to move buildings on streets.
- 12.56.070 Permit to public utilities.
- 12.56.080 Permit to plant, remove, maintain and protect trees and shrubs.
- 12.56.090 Power to plant, remove, maintain and protect trees and shrubs.
- 12.56.100 Public nuisance.
- 12.56.110 Abatement of nuisance.
- 12.56.120 Interference with the city forester.
- 12.56.130 Appeal from order of city forester.
- 12.56.140 Master street tree plan.
- 12.56.150 Arboricultural specifications and standards.
- 12.56.160 Dutch elm disease.
- 12.56.170 Authority of city forester to enter private premises.
- 12.56.180 Severability.
- 12.56.190 Cost of planting, removing, maintaining and protecting trees and shrubs.

12.56.010 Purpose. It is the policy of the city to regulate and control the planting, removal, maintenance, and protection of trees and shrubs in the city; to eliminate and guard against dangerous conditions which may result in injury to persons using the public areas of the city; to promote and enhance the beauty of the city; to prevent damage to any public sewer or water main, street, sidewalk, or other public property; to protect trees and shrubs located in public areas from undesirable and unsafe planting, removal, maintenance, and protection practices; and to guard all trees and shrubs within the city against the spread of disease or pests. The provisions of this chapter shall apply:

- (a) To all trees and shrubs presently or hereafter planted in or upon any public area; and
- (b) To all trees and shrubs presently or hereafter planted in or upon any private premises which shall endanger the life, health or safety of persons or property. (Ord. 61-4202 §1(part), 1972.)

12.56.020 Definitions. (a) "Public way" includes all public streets, roads, boulevards, alleys and sidewalks.

⁸ For statutory provisions defining the powers and duties of the city forester, see § 27.09, Wis. Stats. As to the removal of fallen trees from highways, see § 86.03, Wis. Stats.

(b) "Public area" includes all public ways, parks, and other lands owned or leased by the city.

(c) "Trees and/or shrubs" includes all woody vegetation presently or hereafter planted on any public area.

(d) "Maintenance" and "protection" include all operations of: trimming, pruning, spraying, injecting, fertilizing, treating, bracing, doing surgery work, cutting above or below ground. (Ord. 61-4202 §1(part), 1972.)

12.56.030 City forester. (a) Appointment: The Wausau park and recreation committee may employ a city forester (§ 27.09, Wis. Stats.).

(b) Powers and Duties: The city forester shall have the following general powers and duties:

(1) To direct, manage, supervise, and control the city street tree program to include all planting, removal, maintenance, and protection of all trees and shrubs on all public areas; to supervise park department personnel in the planting, removal, maintenance, and protection of said trees and shrubs.

(2) To guard all trees and shrubs within the city so as to prevent the spread of disease or pests and to eliminate dangerous conditions which may affect the life, health or safety of persons or property.

(3) Such other powers and duties as are provided by the laws of Wisconsin, particularly Sections 27.08 and 27.09 of the Wisconsin Statutes; by ordinances of the city; and by the Wausau park and recreation committee.

(Ord. 61-5339 §5, 2007, File No. 07-0718; Ord. 61-4202 §1(part), 1972.)

12.56.040 Damage to trees and shrubs. No person shall in any public area of the city: break, injure, mutilate, kill, or destroy any tree or shrub; permit any animal under his control to do so; permit any fire to injure any portion of any tree or shrub; permit any leak to exist in any gas line within the root zone of any tree or shrub; permit any toxic chemical to seep, drain, or be emptied on or about any tree or shrub; or permit electric wires to come in contact with any tree or shrub. During building operations, the builder shall erect suitable protective barriers around public trees and shrubs which may be injured, after first giving written notice to the city forester. (Ord. 61-4202 §1(part), 1972.)

12.56.050 Fastening materials to trees and shrubs. No person shall fasten any sign, rope, wire, or other materials to or around or through any public trees or shrub without obtaining a written permit from the city forester, except in emergencies such as storms or accidents. (Ord. 61-4202 §1(part), 1972.)

12.56.060 Permit to move buildings on streets. For provisions relating to moving buildings, see Chapter 15.40 of this code. (Ord. 61-4202 §1(part), 1972.)

12.56.070 Permit to public utilities. No permit shall be issued by the city for the installation of public utilities until it is endorsed in writing by the city forester. When a permit is given by the city forester to a telephone, telegraph, electric power, gas or other public service corporation or utility to trim trees or perform other operations affecting trees or shrubs, the amount or extent of such work shall be limited to the actual necessities of the services of the company and such work shall be done in a neat and professional manner and according to the arboricultural specifications and standards set forth in the written permit. The city forester may assign an inspector to supervise the work performed under the permit. The expense of such service shall be charged to the permittee at the usual city rate. (Ord. 61-4202 §1(part), 1972.)

12.56.080 Permit to plant, remove, maintain and protect trees and shrubs. No person shall plant trees or shrubs in any public area unless a written permit is first obtained from the city forester. No person shall trim, prune, remove, treat, spray, inject, fertilize, brace, do surgery work, cut above or below ground, or otherwise disturb any tree or shrub in any public area without obtaining a written permit from the city forester. The permittee shall adhere to the arboricultural specifications and standards of workmanship set forth in the permit. A permit shall not be required to water trees and shrubs. (Ord. 61-4202 §1(part), 1972.)

12.56.090 Power to plant, remove, maintain and protect trees and shrubs. The city forester shall have the authority to plant, remove, maintain, and protect trees and shrubs on all public areas as may be necessary to insure safety or preserve the symmetry and beauty of such grounds. (Ord. 61-4202 §1(part), 1972.)

12.56.100 Public nuisance. Any tree or shrub or part thereof growing upon private or public property which is:

- (a) Interfering with the use of any public area;
- (b) Infected with an infectious plant disease;
- (c) Infested with injurious insects;
- (d) Injurious to public improvements; or
- (e) Endangers the life, health, or safety of persons on public property is declared a public nuisance. (Ord. 61-5627 §1(part), 2014, Ord. 61-4202 §1(part), 1972.)

12.56.110 Abatement of nuisance. (a) Trees and Shrubs on Public Areas. If the city forester determines, with reasonable certainty upon inspection or examination, any nuisance tree or shrub, as herein defined, exists in or upon any public area in the city, he shall immediately cause it to be treated, trimmed, removed, or otherwise abated in such manner as to destroy or prevent the spread of the nuisance. The manner in which the nuisance shall be abated, shall be determined by the city forester.

(b) Trees and Shrubs on Private Premises. If the city forester determines with reasonable certainty upon inspection or examination that any nuisance tree or shrub, as herein defined, exists in

or upon any private premises, he shall in writing notify the owner or tenant having charge of such premises. Within thirty days after the issuance of said notice, said person shall cause the treatment, trimming, or removal and destruction of said nuisance tree or shrub as directed in the written notice. No damage shall be awarded the owner for the destruction of trees or shrubs destroyed pursuant to this chapter. In case the owner or tenant having charge of such premises shall refuse or neglect to comply with the terms of the written notice within thirty days after receiving it, the city forester shall cause the removal, treatment, or trimming of said nuisance tree or shrub. The expense thereof shall be a charge upon the real property on which said tree or shrub is located pursuant to Section 27.09(4), (5), (6), and (7) of the Wisconsin Statutes. (Ord. 61-4202 §1(part), 1972.)

12.56.120 Interference with the city forester. No person shall prevent, delay, or interfere with the city forester or his assistants in the execution or enforcement of this chapter. (Ord. 61-4202 §1(part), 1972.)

12.56.130 Appeal from order of city forester. A person who objects to all or a part of an order or decision of the city forester may, within eight days of receipt thereof, notify the park and recreation committee and the city forester, in writing, of the nature of the objection and request a hearing thereon. Upon receipt of such objection, the city forester shall stay the order or work pending the outcome of the appeal process. Within eight days of the receipt of such notice of appeal, the park and recreation committee shall schedule a hearing before the committee or its designated subcommittee to hear the objection. The hearing shall be held within eight days of notice to the appellant. The city forester shall be present at such hearing. The appellant is entitled to be represented by counsel at appellant's expense. Within eight days after such hearing, the park and recreation committee shall, in writing, notify the appellant and the city forester of its decision. The park and recreation committee may affirm, cancel or modify the order, in its discretion, to best conform such order to the intent of this chapter and make its report thereon to the common council. If the appellant objects to the decision of the park and recreation committee, the appellant may, within eight days of receipt thereof, notify the city clerk, in writing, of the nature of the objection and request a hearing before the common council thereon. The council may adopt, reject or amend the park and recreation committee's recommendation. The city clerk shall notify the appellant, park and recreation committee, and city forester, in writing, of the council's decision. (Ord. 61-5627 §2(part), 2014; Ord. 61-4290 §1, 1975.)

12.56.140 Master street tree plan. The master street tree plan shall consist of city-wide, street-by-street written evaluation of all space and site factors which will aid in the determination of the tree species best suited to a particular planting site in regard to growth habits, shape, form, health, disease and pest resistance, conflicts with wires, lights, pavement, traffic, pedestrians, sidewalks, environmental pollution, sewers and space availability. The evaluation of the space and site factors and the species selection for a particular street shall be made by the city forester. (Ord. 61-4202 §1(part), 1972.)

12.56.150 Arboricultural specifications and standards. The following specifications and standards are established for the planting, trimming, and removal of trees and shrubs in the streets, parks and public places of the city:

- (a) Planting:

- (1) All trees will be not less than one inch in diameter of trunk, at six inches above ground level.
- (2) No tree shall be planted closer than two feet from the curb line or outer line of the sidewalk. All trees shall be planted in line with each other and at a spacing of between forty and sixty feet from each other depending on the species of the tree. The exact planting location of each tree and shrub shall be determined by the city forester.
- (3) Where the soil is of poor quality, good soil shall be provided in an amount sufficient to insure proper growth.
- (4) The following species and varieties are prohibited for planting on the boulevards of public streets in the city: female trees of the genus Populus and female trees of boxelder.
- (5) No tree shall hereafter be planted at or within twenty feet of an intersection.

(b) Trimming:

- (1) All trees and shrubs, on public or private property, which have branches overhanging a public street, shall have said branches trimmed to a clearance height of fourteen feet; all trees and shrubs, on public or private property, which have branches overhanging a public sidewalk, shall have said branches trimmed to a clearance height of ten feet. The city forester may waive the provisions of this section for newly planted trees if he determines they do not interfere with public travel, obstruct the light of any street light, or endanger public safety. Any tree or shrub not trimmed as herein provided shall be subject to the provisions of section 12.56.110.
- (2) All saw cuts exceeding one inch in diameter shall be waterproofed with proper paint.
- (3) All dead wood, stubs, broken branches, badly formed branches, disease infected and insect infested branches and branches interfering with public travel, lighting, existing buildings, and traffic signs shall be removed during the trimming operation, with consideration given to the symmetry and beauty of the tree or shrub.

(c) Removing:

All public trees and shrubs which are marked for cutting shall be completely removed from the growing site and disposed of in an authorized manner. The stump shall be ground out to a depth suitable for future planting of trees or turf.

(Ord. 61-4202 §1(part), 1972.)

12.56.160 Dutch elm disease. (a) Public Nuisances Declared. The common council having determined the health of the elm trees within the city is threatened by a fatal disease known as "Dutch elm disease" declares the following to be public nuisances:

- (1) Any living or standing elm tree or part thereof infected with the Dutch elm disease fungus *Ceratocystis ulmi* (Buisman) Moreau or which harbors any of the elm bark beetles *Scolytus multistriatus* (Eichh) or *Hylurgopinus rufipes* (Marsh);
- (2) Any dead elm tree or part thereof, including logs, branches, stumps, firewood or other elm material not buried, burned, sprayed with an effective elm bark beetle destroying insecticide, or from which the bark has not been removed.

(b) Nuisances Prohibited. No person shall permit any public nuisance as defined in subsection (a) of this section to remain on any premises owned or leased by him within the city.

(c) Abatement of Dutch Elm Disease Nuisance. Abatement of Dutch elm disease nuisance shall be pursuant to section 12.56.110. (Ord. 61-4202 §1(part), 1972.)

12.56.170 Authority of city forester to enter private premises. The city forester or his representatives, after giving advance notice to the owner or tenant having charge, shall have the authority to enter upon private premises at reasonable times for the purposes of examining or inspecting any suspected nuisance tree or shrub. All nuisance trees and shrubs to be removed under the provision of section 12.56.110 may be appropriately marked by the city forester. (Ord. 61-4202 §1(part), 1972.)

12.56.180 Severability. If any provision of this chapter is declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not invalidate any other provision of this chapter. The common council of the city declares they would have adopted each and every provision of this chapter separately regardless of the possible invalidity of any part thereof. (Ord. 61-4202 §1(part), 1972.)

12.56.190 Cost of planting, removing, maintaining and protecting trees and shrubs. The entire cost of planting, removing, maintaining, and protecting trees and shrubs on all public areas of the city, when done by park department employees or their contractors at the direction of the city forester, shall be borne by the city out of the park department budget. When a permit is issued by the city forester to plant, remove, maintain or protect trees and shrubs, pursuant to sections 12.56.070 and 12.56.080, the permittee shall incur all expenses. (Ord. 61-4202 §1(part), 1972.)