

CHAPTER V

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CHAPTER V

STREETS, ALLEYS AND SIDEWALKS

5.01 Official Map. To promote the efficient and economical development of the Village of West Salem, and to conserve and promote the public health, safety, convenience or welfare, the Official Map of the Village of West Salem shall conclusively designate the location of all Village streets highways and parkways. The Administrator shall file a certificate showing any amendments to the Official Map with the Register of Deeds of La Crosse County.

5.02 Grades.

(A) Base of Grades and Elevations. All grades and elevations fixed and established, and all grades and elevations that shall or may be hereafter established, are and shall be described in feet and decimals of a foot above Mean Sea Level as established by the United States Government Surveys, 1929 adjustment.

(B) Street and Sidewalk Grades.

(1) Establishment. The grade of all streets, alleys and sidewalks may be established by resolution by the Village Board and the same may be recorded in the Village Administrator's office. No street, alley, or sidewalk shall be worked until the grade thereof is established. The grades of all streets having curbs and gutters on the effective date of this section are established at the level then existing.

(2) Alteration of Grades Prohibited. No person shall alter the grade of any street, alley, driveway, sidewalk or public ground or any part thereof in the Village unless authorized or instructed to do so by the Board or the Village Administrator. All such alterations of grade shall be recorded in the office of the Village Administrator.

(C) Grade of Alleys. When not otherwise specifically provided by ordinance or resolution of the Board, the maximum grade of the centerline of any alley running through any block bounded by streets for which the grade has been established shall be upon a straight line from the street grade upon one side of the block to the street grade on the other side of the block, and the maximum grade of the outer lines of the alley shall be three (3) inches above the street grade on the one side of the block to point three (3) inches above the street grade on the other side of the block,

and spaces between these lines and the centerline shall be upon planes connecting these lines.

(D) Grades of Sidewalks. All sidewalks shall be on a grade, which is a minimum of three (3) inches higher than the adjacent street grade.

(E) Curbs. All curbs shall be at least 24" in depth for alleys and 30" in depth for streets and shall be of a sufficient thickness for a substantial curb. Depth of curb is defined as the distance from the back of the curb to the edge of the curb abutting the street.

(F) Boulevards. The space between the sidewalk and curb shall be upon the same plane with the sidewalk and the top of the curb.

(G) Gutters. Unless otherwise specifically provided, the line at the top of the gutters at the outer edge of roadways adjoining the curbs shall be 6 inches below the top of the curb. The gutters shall form an inclined plane with a fall of 3/4 of an inch in 2 feet from the inner to the outer lines of the gutters.

5.03 Street Construction Regulations.

(A) Materials and Mode of Construction. All streets constructed in the Village after the date of this Ordinance shall be constructed in accordance with the Developer's Agreement and the provisions of Chapter IV: Land Division and Platting.

(B) Materials and Construction Methods. All materials and construction methods shall comply with the current Standard Specifications for Road and Bridge Construction of the Wisconsin Department of Transportation.

(C) Developers must provide services of a testing laboratory, approved by the Village of West Salem, to take compaction tests on new streets as follows:

- (1) Compaction of fill areas on public streets shall be taken every Two Hundred (200) lineal feet of street at vertical depths as required by the Village Public Works Director or Village Engineer.

(2) Compaction of gravel base course shall be taken every Two Hundred (200) lineal feet of street.

(3) Compaction in all areas shall meet a minimum relative density of 95 percent of ASTM: D 698-79 (standard proctor).

(4) The total cost of compaction and tests shall be paid by the developer.

(D) Permit Required. Prior to cutting any curb or construction or reconstruction of any curb, driveway or sidewalk in the public area, the area between the lot line and the traveled portion of the road, a boulevard permit for such work shall be obtained from the Village Public Works Director who will furnish detailed information as to what utilities or other appurtenances are located in the area and as to just how this work must be accomplished. A permit application shall be accompanied by a permit fee as set forth in Appendix "A" Fee Schedule. No permit shall be issued unless the Public Works Director has reviewed and approved same and unless the Village Administrator is satisfied that said proposed construction will not interfere with existing utilities and other appurtenances located in said areas.

5.04 Sidewalks.

(A) Duty to Build. The owner or owners of any lot or parcel of land within the corporate limits of the Village of West Salem shall lay, remove, replace, or repair the sidewalks or cause the same to be done, within or upon a public street or avenue adjacent to and abutting upon said lot or parcel of land if and when the Board shall determine it to be necessary for the benefit and use of the public, and no sidewalk which shall be constructed contrary to the provisions of this Code shall be considered a legal sidewalk and the same may be ordered to be replaced with a legal sidewalk in conformity with this Code, the same as if no sidewalk whatever had been built or constructed in the place where any such sidewalk is located.

(B) Material to be Used. All sidewalks in the Village shall be built and maintained of concrete and whenever any sidewalk now within the Village limits and being of other material than is herein prescribed shall require repairs or renewal, the same shall not be repaired in its present form but new sidewalks of the material herein prescribed shall be constructed in place thereof.

(C) Village Board to Regulate. The material and mode of construction of all sidewalks on all streets and avenues shall be such as the Village Board may from time to time prescribe.

(D) Width of Sidewalks. Unless otherwise specifically provided by Board resolution, new sidewalks in subdivisions whose plats are accepted by the Village of West Salem after May 1, 2010, shall be five (5) feet wide, provided, however, all existing sidewalks of lesser or greater width as of May 1, 2010, are declared legal sidewalks and may be continued or repaired in part at such width, but any replacement of walks greater than four (4) feet shall be at existing width and any replacement of walks less than four (4) feet in width shall be at four (4) feet in width. All repair or replacement must be in accordance with the then existing resolution establishing specifications with the exception of width as provided for above. For all subdivisions whose plat was accepted prior to May 1, 2010, and which no sidewalk is yet constructed, any new sidewalk in those areas must be four (4) feet wide.

(E) Grade or Elevation. The grade or elevation of all sidewalks shall be as established by the Village Street Committee.

(F) Notice to Build or Repair. When it is the opinion of the Village Board (pursuant to Subsection A of this section) that a sidewalk ought to be constructed or that any sidewalk requires repairing, rebuilding, or should be replaced, the said Village Board shall without petition or request direct the Village Administrator to notify the owner of the lot or tract of land abutting on said sidewalk or said proposed sidewalk to repair the same within twenty (20) days from the date of the service of the notice, to build a new sidewalk or rebuild the sidewalk within twenty (20) days from the date of the service of the notice, as the case may be, provided however, that if the notice is given between August 1st and May 1st (of the following year) the time period commences to run from May 1st.

(G) Service of Notice. The notice mentioned in Section F shall be served in the manner as outlined in Sec. 66.0907(3)C Wis. Stats.

(H)(1) Failure to Build. In case any person shall fail to build, rebuild, or repair such sidewalk within the time required by said notice, the Village Administrator shall authorize repair, rebuilding, or the building of the said sidewalk and certify the return to the Village the total cost of such work, and the cost of such work done adjacent and abutting each separately owned parcel of land fronting on such street or portion thereof, which amount shall be a lien on such parcel of land from the date of ordering such work.

(H)(2) Minor Repairs. If the cost of repairs of any sidewalk in front of any lot or parcel of land does not exceed the sum of \$100, the Public Works Director, if so required by the Village Board, may immediately repair the sidewalk without notice, and charge the cost of the repair to the owner of the lot or parcel of land, as provided in this Ordinance.

(I) Collection of Costs. Upon the certification of the Village Administrator of the Village expense of laying, removing, or repairing sidewalk in adjacent and abutting of each parcel of land, whether the work be done by contract or otherwise, the amount therein charged to each parcel of land shall be entered by the Administrator in the Tax Roll as a special tax against said parcel of land, and the same be collected in all respects like other taxes upon real estate, provided, however, the Village Board may allow payments by installment with interest on the unpaid balances pursuant to specific resolution adopted by the Village Board in accordance with Board policy thereon, all pursuant to Section 66.0907(3)(f) of Wisconsin Statutes. All Village authorized repairs, rebuilds, or replacements are subject to an Administration Fee as set forth in Appendix "A", Fee Schedule.

(J) The owner of each and every lot, whether the lot has a building upon it or not, which lot adjoins any street on any side of the lot, shall clean any sidewalk within the street right-of-way, which sidewalk adjoins such lot, of snow or ice to the width of such sidewalk. This must be accomplished within twenty-four (24) hours after the snow ceased to fall or within twenty-four (24) hours of the formation of ice, and cause the same to be kept clear from snow and ice, provided that in case the snow shall continue to fall for some time, it shall be removed as soon as practicable after it has ceased to fall and provided that when the

ice formed upon any sidewalk so that it cannot be immediately removed, the person herein referred to shall keep the ice sprinkled with salt, an ice melt product, or sand. No person in the course of removing snow or ice from any private property shall cause or permit the snow or ice to be placed or left upon any public way, including any public sidewalk or roadway. No person in the course of removing snow or ice from any sidewalk which adjoins a lot which is required to be cleared of snow and ice pursuant to this Ordinance shall cause or permit the snow or ice which is cleared to be placed or left on any public way, including any sidewalk or any roadway. No person in the course of removing snow or ice from any boulevard area located between a public walk and the roadway, including, but not limited to, any grassy areas, carriage walk areas, driveway approaches or paved boulevards, shall cause or permit the snow or ice which is cleared to be placed or left on any public way, including public sidewalks and roadways. The only exceptions to the prohibitions of this Ordinance with regards to placing of snow or ice into any public way are the following areas:

(1) Persons removing snow and ice from private property, or sidewalks which are required to be cleared of snow and ice pursuant to this ordinance, or from any boulevard area may cause or permit said snow or ice to be placed or left upon the boulevard area on their lot's side of the street in front of their lot (in doing so they must make sure that said snow and ice is not left on a public walkway or roadway).

(2) Persons removing snow and ice from private property, or sidewalks which are required to be cleared of snow and ice pursuant to this ordinance, or from any boulevard area may cause or permit said snow or ice to be placed or left upon the boulevard area which is not on their side of the street and in front of their lot only with written consent of the owner of the lot to which the boulevard where they place the snow abuts (in doing so they must make sure that said snow and ice is not left on a public walkway or roadway).

(3) Owners of lots used for business purposes on the first floor in the downtown business area which adjoin (1) Leonard Street between Elm Street and Garland Street; and (2) which adjoin Elm Street, Memorial Drive, Hamilton Street and Franklin Street between Mill Street and Youlon Street may place snow and ice from their sidewalk and boulevard into the street for snow removal by the Village so as to keep the

downtown business area free from snow for safe pedestrian and vehicle movement.

(4) There is an eight (8) foot wide State of Wisconsin designated bicycle trail located both on the north and south sides of State Highway 16 which runs at intervals from the intersections with County Trunk Highway M to the eastern boundary of the Village and the adjacent property owners which adjoin this bike trail shall not have the responsibility for cleaning these areas from snow and ice, but no person shall place any snow and ice removed from their private property onto this eight (8) foot wide paved bicycle trail.

(5) There is a ten (10) foot wide State of Wisconsin funded bicycle trail created under the West Salem Pathways project to be located within the areas described in paragraph 1 herein and which is to be built during the year 2011 and the adjacent property owners which adjoin this bike trail shall not have the responsibility for clearing these areas for snow and ice, but no person shall place any snow or ice removed from their private property onto this ten (10) foot wide bicycle trail.

(K) Obstructions. No landowner or occupant of land shall allow branches of trees to grow over the sidewalk at a height of less than ten (10) feet, and no landowner or occupant of land shall allow any shrubbery or bush to encroach upon the sidewalk. No owner or occupant shall allow placement of any structure requiring a building permit or any personal property items within two (2) feet of any sidewalk required by this Ordinance unless specifically authorized by other Village Ordinances.

(L) Failure to Remove. It shall be the duty of the Village Administrator to cause to be removed the snow and ice from any such sidewalks (pursuant to Section (J) of this Ordinance) or remove obstructions (pursuant to Section (K) of this Ordinance) as shall be neglected by any owner or responsible person and to report the expense of such work to the Village with a tax description of the lot or parcel of land, in front of or adjoining which such work was done, and the Village Board shall cause such expense to be audited and paid out of the general fund, and shall direct the Village Administrator to charge such expense to the lot or parcel

of land adjoining which the same shall be incurred. The amount of such expense shall be inserted in the tax list, next thereafter to be made out, as a special tax against such lot or parcel of land and shall be collected as other taxes upon real estate are collected in the Village.

(M) Provision of State Law. All provisions of Section 66.0907 of the Wisconsin Statutes describing and defining regulations with respect to sidewalks are hereby adopted and by reference made a part of this section as if fully set forth herein. Any act required to be performed or prohibited by Section 66.0907 of the Wisconsin Statutes is required or prohibited by this section.

(N) Sidewalk Repair or Construction.

(1) Adjacent property owners building, repairing, constructing and perpetually maintaining sidewalks along or upon any street, alley or highway in the Village of West Salem shall pay the cost thereof pursuant to this Section. A sidewalk map as recommended by the Planning Commission and adopted by the Village Board shall be the basis of selecting proposed sidewalk locations throughout the Village. All new plats shall require sidewalks in accordance with this Ordinance.

(2) The cost to be assessed shall include all engineering and administrative fees paid by the Village in conjunction with the project.

(3) Sidewalks shall not be required upon recommendation of the Village Engineer and approval of the Village Planning Commission in following situations.

(a) On cul-de-sacs or that portion of a dead-end street from the last intersection.

(b) On high banks where it has been determined to be impossible or is prohibitive to construct.

(c) On internal streets within an industrial park or industrially zoned area, or streets within such area that do not connect to any residential or commercial areas.

(d) On one side of a frontage road, this circumstance occurs when two streets, roads or highways run parallel to each other and no buildings exist between them. The sidewalk should be placed on the side of the frontage road containing the buildings.

(4) This sidewalk code may be waived and modified to accommodate existing obstructions or grade problem upon the recommendation of the Village Engineer and the approval of the Village Planning Commission.

5.05 Street, Boulevard, and Sidewalk Excavations.

(A) Permit Required: No person or entity or their agents or employees or contractors, shall make or cause to be made any opening or excavation in any public street, public alley, public way, public ditch, public ground, public sidewalk, or Village-owned easement within the Village without a permit therefor from the Village Administrator with approval of the Public Works Director. Permits shall be valid for a period of ninety (90) days from the date of approval, except as provided for under Section 5.05(C) for pavement replacement.

(B) Fees. The fees for Permit to Open and Excavate within Street Right-of-Way (Boulevard Opening, Driveway, Sidewalk, and/or Street Opening) shall be as set forth in Appendix "A" Fee Schedule and shall be paid to the Village Administrator who shall issue a receipt therefor. If the opening or excavating of any public way is made prior to the receipt of an approved Open and Excavate Permit from the Village, the application and review fee shall be two (2) times the permit amount as set forth in Appendix "A" Fee Schedule.

(C) Bond. Before a permit for excavating or opening any street may be issued, the applicant must execute and deposit with the Village Administrator an Indemnity Bond and proof of insurance approved by the Village Administrator or a Cash Bond as set forth in Appendix "A" Fee Schedule. Prior to commencement of excavation work, a permittee shall furnish the Village an Indemnity Bond for the work which is the subject of such Application in favor of the Village in the sum of Six Thousand (\$6,000.00) Dollars, which indemnifies the Village for damages the Applicant is liable for, conditioned that the applicant will fill up and place in good and safe condition all excavations and openings made in the street and Village block, and will replace and restore the pavement over any openings are made as near as can be to the state and condition in which it was found, and keep and maintain the same in such condition, normal wear and tear excepted, to the satisfaction of the Village Administrator and Public Works Director for a period of seven (7) years. Such bond shall guarantee that if the Village shall elect to make the street repair, the person opening the

street will pay all costs of making such repair and of maintaining the same for seven (7) years. Such bond shall be further conditioned that applicant will observe the provisions of all State laws, ordinances, rules and regulations governing the issuance of permits under this Section. Such bonds shall be filed individually for each excavation project. References in this paragraph to "keeping and maintaining" and "repairing and maintaining" the street for a seven (7) year period of time refers to seven (7) years after final completion of the repair. All repairs shall be completed by the arrival of the first November 15th following the initial excavation. No bond is required for sidewalk installations.

(D) Regulations Governing Street, Public Way, and Sidewalk Openings.

(1) Frozen Ground. No opening in the streets or sidewalks for any purpose shall be permitted when the ground is frozen, except where necessary as determined by the Public Works Director.

(2) Paving Removal. In opening any street or other public way, all paving or ballasting materials shall be removed with the least possible loss of or injury to surfacing material and together with the excavated material from trenches shall be placed so as to cause the least practicable inconvenience to the public and permit the free flow of water along gutters.

(3) Public Protection. Every person shall enclose with sufficient barriers each opening made in the streets or public ways of the Village. All machinery and equipment shall be locked or otherwise effectively safeguarded from unauthorized use when not being used by the permittee, agents, or employees. Warning lights shall be kept burning from sunset to sunrise, at least one (1) warning light shall be placed at each end of the opening in the street or way and other lights sufficient in number and properly spaced to give adequate warning. Except by special permission from the Public Works Director, no trench shall be excavated more than Two Hundred Fifty (250') feet in advance of pipe laying nor left unfilled more than five hundred (500') feet where pipe has been laid. All necessary precautions shall be taken to guard the public effectively from accidents or damage to persons or property through the period of the work. Each person making such opening shall be liable for all damages, including reasonable attorney's fees and costs incurred by the Village in defending

any action brought against it for damages, as well as cost of any appeal, that may result from the neglect by such person or such person's employees of any necessary precaution against injury or damage to persons, vehicles, or property of any kind.

(4) Surface Replacement. In opening any street, public way, or sidewalk, the paving materials, sand, gravel and earth or other material moved or penetrated and all surface monuments or hubs must be removed and replaced as nearly as possible in the original condition or position and the same relations to the remainder as before. Any excavated material, which in the opinion of the Public Works Director is not suitable for refilling, shall be replaced with approved backfill material. Applicant will fill up and place in good condition all excavations and openings made in the street or any street right-of-way or sidewalk or other Village property and will replace and restore any openings it may make as near as can be to the state and condition in which it was found (surface covered with the same material before excavation: concrete, asphalt, gravel or grass), and shall keep and maintain the same in such condition to the satisfaction of the Village of West Salem for a period of not less than seven (7) years. All rubbish shall be immediately removed, leaving the street, public way, or sidewalk in perfect repair, the same to be so maintained for a period of seven (7) years. Applicant must remove all mud, dirt, sand, and any other materials from all streets and sidewalks at the end of each work day prior to leaving the job site. In refilling the opening, the earth must be puddled or laid in layers not more than six (6") inches in depth, and each layer tamped or flushed to prevent after-settling. When the side of the trench will not stand perpendicular, sheathing and braces must be used to prevent caving. No timber, bracing, lagging, sheathing, or other lumber shall be left in any trench. All excavations shall be subject to testing by the Village. Backfilled material not achieving the above compaction requirements shall be removed and re-compacted by the permittee. The cost of any retesting shall be paid by the permittee. The Village may elect to have the Village make the pavement repair for any street, public way, or sidewalk opening, in which case the cost of making such repair and of maintaining for seven (7) years shall be charged to the person making the street openings.

(5) Curbs. Whenever possible, curbs will be left intact, and in no case shall such curb be removed without approval of the Public Works Director.

(6) Notice. It shall be the duty of the permittee to notify the Public Works Director and all public and private individuals, firms, and corporations affected by the work to be done at least one (1) business day before such work is to commence. The Public Works Director shall also be notified at least four (4) hours prior to backfilling and/or restoring the surface. The fire department and the police department must be notified before any street is entirely blocked and when it is opened.

(E) Insurance. Prior to commencement of street excavation work, a permittee must furnish the Village Administrator satisfactory written evidence that permittee has in force and will maintain during the life of the permit and the period of excavation public liability insurance of not less than \$1,000,000.00 for one person, \$2,000,000.00 for one accident and property damage insurance of not less than \$1,000,000.00.

(F) Emergency Excavations Authorized. In the event of an emergency, any person owning or controlling any sewer, water main, conduit or utility in or under any street and his agents or employees may take immediate proper emergency measures to remedy dangerous conditions for the protection of property, life, health, or safety without obtaining a street opening permit or boulevard permit; provided that such person shall apply for a Street Opening Permit or Boulevard Opening Permit not later than the end of the next succeeding business day and shall not make any permanent repairs without first obtaining a Street Opening Permit or Boulevard Opening Permit hereunder. The Public Works Director may require additional street surfacing removal and replacement for streets less than five (5) years old.

(G) Village Work Excluded. The provisions of this Section shall not apply to excavation work under the direction of the Village by Village employees or contractors performing work under contract with the Village necessitating openings or excavations in Village streets, which openings or excavations shall be regulated by the contract between the Village and the contractor.

5.06 Driveway Construction and Repair. For the safety of the general public, the Village of West Salem shall determine the location, size, construction, and number of access points to

Village-owned public roadways within the Village limits. Design, layout, and construction of private driveways which will be adjacent to a county trunk highway or on a roadway which is within two hundred (200') feet of an intersection of a county trunk highway must obtain approval from the La Crosse County Highway Department before obtaining a permit from the Village of West Salem. It is the Village's intent to provide safe access to properties abutting public roadways suitable for the property to be developed to its highest and best use, provided that access is not deficient or dangerous to the general public. Application for "blind" driveways, wherein the only purpose is to restrict street parking, shall be denied.

(A) Permit Required. A permit is required to construct, reconstruct, alter, or enlarge a driveway. No person shall construct or maintain a driveway across any sidewalk or curbing without first obtaining a Boulevard Opening Permit from the Public Works Director. Any driveway installed or reconstructed without a permit will result in a fee four (4) times the original permit fee amount, and an Application for a permit after-the-fact must be completed. A Boulevard Opening Permit Application shall be made at least forty-eight (48) hours in advance of intended installation. Bond and insurance requirements may apply.

(B) Application. Application for such permit shall be made to the Village Administrator for referral to the Public Works Director on a form provided by the Village Administrator and shall be accompanied by a drawing accurately depicting the portion of the proposed private driveway to be constructed, reconstructed, altered, or enlarged lying within the dedicated portion of the public street, the dimensions therefor, and a statement of the materials proposed to be used. The applicant shall pay a fee as set forth in Appendix "A" Fee Schedule. In no case shall any driveway be installed prior to securing a building permit if the driveway is to service such building or buildings. Upon receipt of the application and the fee, the Public Works Director shall review and approve such application if the proposed driveway complies with the terms and conditions of this and any other applicable Village Ordinance.

(C) All applications for permits shall be made on a form prescribed by the Public Works Director and be accompanied by a sketch showing the exact location of:

- (1) Driveway and approaches;
- (2) Property lines;
- (3) Right-of-way lines;

- (4) Intersecting roads, streets, or roadways within two hundred (200') feet;
- (5) Width of right-of-way;
- (6) Width and type of road surface;
- (7) Distance from right-of-way line to other structures on the site;
- (8) Type of surface and width of driveways;
- (9) Proposed turning radii; and
- (10) Other pertinent information as may be required.

(D) Application Provisions. All Boulevard Opening Permit applications shall contain the applicant's statement that:

(1) The applicant represents all parties in interest, and that such proposed driveway is for the bona fide purpose of securing access to his or her property and not for the purpose of parking or servicing vehicles, advertising, storage, or merchandising of goods within the dedicated portion of the Village right-of-way, or for any other purpose.

(2) The Village, notwithstanding the construction of such driveway, reserves the right to make any changes, additions, repairs, or relocations, widening and maintaining the street without compensating the owner of such private driveway for the damage or destruction of such private roadway.

(3) The permittee, his or her successors or assigns, agrees to indemnify and hold harmless the Village of West Salem, its officials, officers, agents, or employees, against any claim or any cause of action for personal injury or property damage sustained by reason of the exercise of such permit.

(4) The Village of West Salem does not assume any responsibility for the removal or clearance of snow, ice, or sleet or the opening of any windrows of such material upon such portion of such driveway within the dedicated portion of the Village street, public way, or right-of-way.

(E) Driveway Location, Design, and Construction Requirements. The location, design, and construction of driveways shall be in accordance with the following:

(1) General Design. Private driveways shall be of such width and so located that all of such driveways and their appurtenances are within the limits of the frontage abutting the street of the property served. All driveways must be

5.06(E)(1)

located within the extended property lines unless accompanied by a special agreement from the abutting property owner, with extension of said property lines to be on a ninety (90°) degree angle from the street line. If the curb line along two adjoining properties does not form a straight line along for the full curb length of both lots, the ninety (90°) degree angle rule for extended property lines, in all likelihood, will not work. In such a situation, the Public Works Director sua sponte or on the request of either property owner shall establish such an extended property line covering the boulevard area between the lot line and the curb line between the property owners on an equitable basis which shall be established in writing by the Public Works Director and placed in the Village's files and provided to both property owners. This equitable determination of the extended property line covering the boulevard area between the lot line and the curb line between the property owners shall take into account the rules for determining riparian rights as found in the Wisconsin Administrative Code Natural Resources Section 326.07 and apply them in an analogous way to the extent practicable such that neither lot owner may place a drive or other boulevard improvement so close to the lot line considering the angle of the curb so as to unreasonably obstruct the adjoining owners use and enjoyment of his or her lot. Driveways shall not provide direct ingress or egress to or from any street intersection area and shall not encroach upon or occupy areas of the street right-of-way required for effective traffic control or for street signs or signals. A driveway shall be so located and constructed that vehicles approaching or using it shall have adequate sight distance along the street. Private driveways shall be such width and so located that all such driveways and their appurtenances are within the limits of the frontage abutting the street of the property served, and all driveways shall be placed wherever possible so as not to interfere with public utilities. Driveways must be a minimum of three (3) feet from the adjoining parcel line at the right-of-way and into the parcel, except for two (2) adjoining lots with a single, two-family row house unit with zero lot line built over both lots may have driveways adjoining each other at zero lot line but must maintain at least a three (3') foot separation from adjoining lot line. In all driveway instances, a drop curb shall be installed in a two (2') foot distance on each side.

5.06(E)(2)

(2) Number. The number of driveways to serve the individual property fronting on a street shall be one (1), except for townhouses which have conditional use approval for three (3) or more units shall have number of drives set by conditional use.

(3) Island Boulevard Area. The island boulevard area in the street right-of-way between successive driveways or adjoining a driveway and between the highway shoulder and right-of-way shall constitute a restricted area and may be filled in and graded only as provided in Section 5.09.

(4) Drainage. The surface of the driveway connecting with the street cross sections shall slope downward and away from the highway shoulder a sufficient distance to preclude ordinary surface water drainage flowing onto the street roadbed. No driveway apron shall extend out into the street further than the face of the curb, and under no circumstances shall such driveway apron extend into the gutter area. All driveway entrances and approaches shall be so constructed that they shall not interfere with the drainage of streets, side ditches, or roadside areas or with any existing structure on the right-of-way.

(5) Reconstruction of Sidewalks and Curb and Gutter. When the construction of a driveway requires the removal of curb or gutter, the new connections shall be of equivalent acceptable material and the curb return shall be provided or restored in a neat and workmanlike manner. If the curb cut results in a remaining section of curb of four (4) feet or less, the four (4') foot or less section of curb shall be removed and re-poured with new section of curb and gutter or with new driveway approach along the new flow line. The driveway surface shall be connected with the highway pavement and the sidewalk, if any, in a neat and workmanlike manner. The driveway construction shall include the placement or replacement of such sidewalk areas which lay between the driveway approach and the driveway lane on private property with a sidewalk which is constructed in accordance with Section 5.04 of the Code, including, but not limited to, a sidewalk of a minimum thickness of six (6) inches. All residential driveway approaches will be six (6) inches thick.

(6) Relocation of Utilities. Any costs of relocating utilities shall be the responsibility of the property owner

with approval of the Public Works Director necessary before any utility may be relocated and the driveway installed.

(7) Variances. Any of the requirements found in Section 5.06(E) and (G) may be varied by the Public Works Director in such instances where the existing Code needs clarification or the peculiar nature of the property with regards to lot shape or elevations or the design of the street make rigid adherence to the above requirements impossible or impractical. Whenever the Public Works Director grants such a variance, it shall be based on a written request from the property owner and contractor signed by both the property owner and contractor doing the work and the approval of the variance shall be in writing by the Public Works Director and shall be placed in a file related to the property.

(F) Special Requirements for Business and Industrial Driveways. The following regulations are applicable to driveways serving business or industrial establishments:

(1) Width of Driveway. The maximum permitted width of a business or industrial driveway approach shall be thirty-five (35') feet at the curb line, except as increased by permissible radii. In instances where the unique nature of the business or industrial activity or the physical characteristics of the land would require a driveway of greater width than herein specified, the Public Works Director may permit a driveway of additional width.

(2) Angular Placement of Driveway. The angle between the centerline of the driveway and curb line shall not be less than forty-five (45') feet.

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

(G) Special Requirements for Residential Driveways. The following regulations are applicable to driveways serving residential properties:

| Type of Property Residential | Maximum Widths Between R/W line and 5 ft into R/W (sidewalks 5 ft) | Maximum Widths at Curb Normal Height |
|--|--|---|
| <u>Single Family Units:</u> | | |
| Single & double garages. | 22 ft. | 26 ft. |
| 3 or more car garages | 33 ft. | 37 ft. |
| <u>Duplexes:</u> | 40 ft | 44ft |
| <u>2 Unit Row House with Zero Clearance Adjoining Wall Straddling 2 Lots (twindo) only 1 driveway per lot is allowed</u> | 22 ft. | 26 ft. with each driveway at least 3 ft. off the zero clearance line |
| | or | |
| | 20 ft. | 22 ft. with each driveway connected to the other at the zero clearance line |
| <u>Townhouses and Apartment Building:</u> | | |
| <u>Greater Than 2 Unit Townhouse With Zero Clearance Adjoining Walls And Apartment Buildings</u> | <u>The width in R/W and at curb and number of driveways to be set in the conditional use permit. For those approved by conditional use permit before the adoption of this ordinance, the width in R/W and at curb, and number of driveways shall be set by Public Works Director consistent with the rules for 2 unit row houses, but lots with 3 or more Townhouse units can have more than 1 driveway, subject to change by amended conditional use.</u> | |

(H) Prohibited Driveways.

(1) No person, firm, or corporation shall place, construct, locate in, or cause to be placed, constructed, or located in, any obstruction or structure within the limits of any public road, highway, or street in the Village of West Salem except as permitted by this Section. As used herein, the word "structure" includes private driveways, a portion of

which extends into any public road, highway, or street, and which is in non-conformance with this Chapter.

(2) No driveway shall be closer than thirty-five (35') feet to the extended street line at an intersection. At street intersections, a driveway shall not provide direct ingress or egress to or from the street intersection area and shall not occupy areas of the roadway deemed necessary by the Village for effective traffic control or for highway signs or signals.

(3) The grade of that portion of any private driveway or pedestrian path located within the limits of any public road, highway, or street shall be such as shall meet the grade of the existing public roadway at its edge and not cause an obstruction to the maintenance or clearing of such public roadway.

(4) No driveway apron shall extend out into the street further than the facing of the curb and under no circumstances shall such driveway apron extend into the gutter area. All driveway entrances and approaches shall be constructed as not to interfere with the drainage of streets, side ditches, or roadside areas, or with any existing structure on the right-of-way.

(5) No portion of any curb, parapet, or retaining wall, rising above the grade of the driveway, erected by the owner of the premises involved shall extend beyond the culvert spanning the water course located in such public way.

(I) Inspection. Within forty-eight (48) hours after completion of the work, the owner of the abutting lands shall notify the Public Works Director of such completion. The Public Works Director shall inspect such work within a reasonable time to ensure it conforms to this Section. If work does not conform, the owner promptly shall correct the work, or cause such work to be corrected. If work is not corrected, permittee shall be subject to the penalties provided in this Section.

5.07 Uniform Address System.

(A) In General. The baseline is at the intersection of Hamilton and Leonard Streets. Based on a different number for each Fifteen (15') feet of frontage, all numbers begin at the baseline and progress northerly, southerly, easterly and westerly.

All lots and houses located upon east and west oriented streets shall be even on the north side of the street and odd on the south side of the street. All lots and houses located upon north and south oriented streets shall be even on the west side and odd on the east side of the streets.

The numbering within the first block shall be from 100 to 199 and the numbers in each succeeding block shall increase from the baseline in units of 100, i.e., the second block shall be 200-299, etc.

(B) Rules.

(1) Any building, which has more than one front door, serving separate occupants, shall be assigned a separate number for each door.

(2) When only one number can be assigned to any building, the owner, occupant or agent of the building who desires distinctive numbers for the upper and lower portions of the building or for any part of the building which fronts on a street, shall use the suffix "A", "B", "C", etc.

(3) All numbers shall be conspicuously placed immediately above or next to the proper door of each building so that the number can be plainly seen from the street.

(C) Plat on File. To facilitate a uniform house numbering system, a plat book of all Village streets showing the proper numbers of all lots or houses fronting upon all streets shall be kept on file in the Village Administrator's office. This plat book shall be open to inspection by all persons during the Administrator's office hours.

(1) It shall be the duty of all building owners or occupants to learn and obtain the correct number, for which no fee shall be charged. Replacements of these numbers shall be provided and paid for by the owner.

(a) Whenever any residence or place of business shall be erected in the Village after the work of establishing a uniform address system has been completed, it shall be the duty of the owner at the time of obtaining a building permit to procure the correct number and street name from the Building Inspector and within thirty (30) days thereafter to install the number

on the building or premises as provided in subsection (b).

(b) Within thirty (30) days after the final approval of any new subdivision or other division of land, the Village Administrator shall assign addresses to each new building site. Record shall be kept of assignments and a copy shall be provided for the developer at his or her request.

(2) Each owner or occupant of any building shall attach the proper number to his building within twenty (20) days of assignment or initial occupancy. Failure to do so within twenty (20) days shall result in notice being given, requiring immediate, proper posting. Failure to post the number within ten (10) days of the notice constitutes a violation of this ordinance. Upon conviction thereof the violator shall forfeit not less than one (\$1.00) Dollar or more than Ten (\$10.00) Dollars, plus the costs of prosecution and penalty assessment fee. Each day a violation continues is a separate violation.

5.08 Street Lights. Providing the public health, safety or general welfare requires the addition of street lights to any previously developed areas within Village limits, the cost of such installation shall be assessed back to the property owners benefiting thereby and placed on the tax rolls as a special assessment. Such assessment process shall comply with the provisions of §66.0703, Wis. Stats.

5.09 Tree Planting and Boulevard Care.

(A) Definitions. Whenever the following words or terms are used in this Section, they shall be construed to have the following meanings:

(1) Person. Person, firm, partnership, trust, association, corporation, limited-liability company, limited liability partnership, or other legally recognized entity.

(2) Public Areas. Includes all public parks, playgrounds, recreation areas, park ways, common open spaces, greenways, forests, conservancies, cemeteries and other lands owned or leased by the Village which are not public ways.

5.09(A)(3)

(3) Public Ways. Shall include all public streets (which includes highways, streets, roads and alleys), right-of-ways, boulevards, terraces and sidewalks on land owned by the Village and under the authority of the Public Works Department.

(4) Public Trees, Plantings, and Shrubs. All trees, plantings, and shrubs located or to be planted in or upon public areas or public ways.

(5) Public Nuisances. Any tree, planting, or shrub or part thereof which, by reason of its condition, interferes with the use of any public area or public way; is infected with a plant disease; is infested with potentially injurious insects or pests; is potentially injurious to public improvements or endangers the life, health, safety, or welfare of persons or property.

(6) Boulevard or Terrace Areas. The land between the curb (and if there is no curb, the improved portion of the street) and the sidewalk (and if there is no sidewalk, the street right-of-way line).

(7) Major Alteration. Trimming a tree beyond necessary trimming to comply with this Section. Trimming or pruning of more than one-half (1/2) of the crown of a tree shall be considered to be major alteration and shall require a permit from the Public Works Director.

(8) Shrubs a/k/a Bushes. Any woody vegetation or a woody plant having multiple stems and no main trunk and bearing foliage from the ground up.

(9) Tree. Any woody plant, normally having one stem or trunk bearing foliage starting well above ground level. (Evergreen trees are not within the definition of tree.)

(10) Evergreen Tree. Any woody plant normally having one stem or trunk and bearing foliage in the form of needles which extend from ground level throughout its entire height.

5.09(A)(11)

(11) Plants. Any vegetation which has stems which are not woody in nature and are not considered a lawn grass.

(12) Public Works Director. Person designated by the Village Board as authorized to carry out the provisions of this Section.

(B) General.

(1) Intent and Purpose. It is the policy of the Village of West Salem to regulate and establish policy for the control of planting, removal, maintenance, and protection of trees, plantings and shrubs in or upon all public areas and public ways of the Village of West Salem so as to eliminate and guard against dangerous conditions which may result in injury to persons using public ways and public areas; to eliminate and guard against dangerous conditions which may result in damage to public improvements, including, but not limited to, streets, alleys, curb, gutters, sidewalks, sewers, waterlines and other utilities and to promote and enhance the beauty and general welfare of the Village; to prohibit the undesirable and unsafe planting, removal, treatment, and maintenance of trees, plantings and shrubs, and to guard all trees, plantings and shrubs, both public and private, within the Village against the spread of disease, insects, or pests.

(2) Enforcement. The provisions of this Section shall apply to trees, plantings and shrubs growing at the enactment of this ordinance or hereafter planted in or upon public areas and public ways and also to all trees, plantings and shrubs growing or to be planted in or upon any private premises, which shall threaten the life, health, safety, or welfare of the public or of any public areas or public ways. The Public Works Director shall enforce the provisions of this Section. No person shall interfere with the Public Works Director or other Village representatives under the Public Works Director's direction while they are engaged in carrying out any work or activities authorized by this Section.

(3) Powers and Duties. The Public Works Director shall:

(a) Regulate, direct, manage, supervise, and control the planting, removal, trimming, care, maintenance, and protection of trees, plants, and shrubs in all public areas and public ways in the Village;

(b) Care for all trees within the Village so as to eliminate and prevent tree diseases and pests and

existence of conditions dangerous to public health, safety, and general welfare; and

(c) Perform such other duties as may be imposed upon by Wisconsin Statutes, Village Ordinance or Resolution, and by direction of the Street Committee.

(4) Right-of-Entry. The Public Works Director or other authorized Village representatives may enter upon private premises at all reasonable times for the purpose of examining any tree or shrub located upon or over such premises and carrying out any of the provisions of this Section. If a request to inspect such trees or shrubs is denied by the person responsible for the property, an inspection warrant may be obtained as allowed under Wisconsin Statutes.

(C) Permits.

(1) When Required. No person shall plant, remove, spray, brace, cut down or perform a major alteration on any tree in a public area or public way without a permit issued by the Public Works Director. A permit for the removal, major alteration, or cutting down of a tree shall be issued as necessary, as determined by the Public Works Director, because of disease, damage, hazardous condition, and/or location, or its location is such that substantial detriment is done to the property upon which the tree stands, or property abutting the same. Such permit shall expressly state the premises upon which the tree stands and the location of the tree thereon.

(2) Permit Exemptions. No permit shall be required to cultivate, fertilize, water trees or trim trees to comply with this section. No permit is required for work by Village personnel. No permit is necessary for planting, removing, spraying, bracing, cutting down or performing major alterations on private property.

(3) Fees. The fee for planting or transplanting a public tree shall be as set forth in Appendix "A" Fee Schedule for each tree planted or transplanted. The fee for any other permit shall be as set forth in Appendix "A" Fee Schedule for each tree affected.

(4) Application. Application for a permit shall be on a form prescribed by the Village Administrator, and shall contain, without limitation:

5.09(C)(4)

- (a) The name and address of the applicant;
- (b) The location of the tree affected;
- (c) The variety of the tree affected;
- (d) The act to be preformed:

(e) If the application is for planting or transplanting, the distance from other trees and the variety of adjacent trees. The Public Works Director may deny an application or impose conditions upon the granting of a permit, considering, without limitation, the location of public utilities, sidewalks, driveways and street lights, the characteristics of the variety of tree proposed to be planted or transplanted, the aesthetic effect upon the area in which the proposed tree is to be located, and such other factors as may affect the public health, safety, and general welfare.

(f) Any work under such permit must be performed in strict accordance with the terms thereof and the provisions of this Section. Permits issued under this Section shall expire six (6) months after date of issuance.

(5) Process. The application forms shall be submitted to the Village Administrator with any required fee and within ten (10) work days the Public Works Director shall visit the site and act on the application in writing.

(D) Trimming.

(1) Trees standing in or upon any public way or public area, or upon any private premises adjacent to any public way or public areas shall be kept trimmed so that the lowest branches projecting over the curb (if no curb, the edge of the improved portion of the street) provide a clearance of not less than fourteen (14) feet. The Public Works Director may waive the provisions of this Section for newly planted trees if it is determined that they do not interfere with public travel, obstruct the light of any street light, obstruct motorist vision or endanger public safety.

(2) The necessity of tree pruning is determined by the Public Works Director.

(3) Tree clearance from sidewalk to lower branches of trees overhanging the sidewalk shall not be less than ten (10) feet. All trees standing upon private property in the Village, the branches of which extend over a sidewalk, shall

5.09(D)(3)

be trimmed so that no branch shall grow or hang over the line of the sidewalk lower than ten (10) feet above the level of the sidewalk. No tree on private property or in a public area or public way shall be permitted to grow in such a manner as to obstruct the proper diffusion over a public area or public way of light from any public lamp.

(4) Any shrub, tree, or other plant which is located within twenty-five (25) feet of an intersection or grows or hangs over the line of the sidewalk contrary to this Section shall be deemed to be dangerous to public travel. The Public Works Director shall give written notice to said owner to remedy the situation. Such notice shall specifically state the period of time within which the action must be taken, which shall be within not less than twenty-four (24) hours nor more than thirty (30) days as determined by the Public Works Director on the basis of the seriousness of the condition of the tree, shrub or plant or danger to the public. If the owner shall fail to remove, treat, or trim the same within the time limited, the Public Works Director shall cause the tree to be removed, treated, or trimmed and shall report the full cost thereof to the Village Administrator, who shall thereupon enter such cost as a special assessment charge against the property.

(E) Boulevard Tree Regulations.

(1) Boulevard trees should meet the following criteria:

(a) Tolerant of poor soil conditions such as compaction, poor drainage, droughtiness, poor fertility, and temperature extremes;

(b) Tolerant of reflected light and heat (off pavement and glass), wind, deicing salts, pollution, and other contaminants;

(c) Relatively long-lived, strong-wooded, low-maintenance, and pest-free;

(d) Growth and branching characteristics are such that the trees do not block visual access to stop signs, driveways, street lights, etc.; and

(e) Free from objectionable features, such as thorns or fruits.

(2) Acceptable Boulevard Trees. Planting of trees in boulevard areas shall be according to the Village approved tree-planting list created and maintained by the Public Works Director and generally meet the criteria listed in 5.09(E)(1)

and are suitable for some or all boulevard applications. The Village reserves the right to add to, alter, revise, or change the Village approved tree planting list without notice.

(3) Planting.

(a) The size and genus, species, and variety of trees to be planted in boulevards and the manner of planting shall be submitted to the Public Works Director for approval before commencement of such work.

(b) There shall be a minimum distance of sixteen (16) feet and a recommended distance of twenty-five (25) to fifty (50) feet between boulevard area trees depending upon the size of tree and other factors. Trees may not be planted closer than sixteen (16) feet apart. Boulevard trees shall be planted equal distance between the sidewalk or proposed sidewalk and back of the curb or proposed back of curb. In boulevard areas less than six (6) feet wide, planting will not be permitted. Boulevard area trees shall be a minimum of twenty-five (25) feet from an intersection.

(c) Evergreen trees shall not be planted in any public way.

(d) Tree grates shall be provided for boulevard trees surrounded by concrete by the adjacent property owner and shall be level with adjacent concrete.

(e) Pursuant to Village policy, trees shall not be planted closer than two (2) feet to any sidewalk or curb.

(f) All new shade trees must be a minimum of one (1") inch diameter caliper at the time of planting. (g) All new trees must be balled and burlapped.

(h) Diggers Hotline must be notified three (3) working days prior to any digging for tree planting purposes.

(i) No trees shall be planted on any boulevard until the grade for such street has been established and cut or filled to the established grade.

(j) The Village Board may, from time to time, establish other regulations, which the Board may deem necessary to insure safety on or preserve the symmetry and beauty of any public places.

(4) Unlawfully Planted Trees. Trees, plants, or shrubs planted within any public way contrary to the provision herein may be removed. The Public Works Director shall notify the

abutting owner in writing, listing the trees, plants, or shrubs in violation hereof, ordering their removal, and establishing a reasonable time of not less than thirty (30) days within which such removal shall be accomplished. In the event that removal is not to be accomplished within the time specified, the Village may remove such trees, plants, or shrubs and assess the costs thereof to the owner.

(5) Private Property Trees. Trees shall not be planted any closer than three (3) feet from the property line or any public improvement, including, but not limited to, sidewalk, curb, street or alley paving or utility installation.

(F) Removal of Trees and Stumps.

(1) Dangerous, Obstructive, and Infected Trees. Any tree, plant or shrub or part thereof, whether alive or dead, which the Public Works Director shall find to be infected, hazardous, or a nuisance so as to endanger the public or other trees, plants, or shrubs growing within the Village, or to be injurious to sewers, sidewalks, or other public improvements whether growing upon public or private premises, shall be removed, trimmed, or treated by the owner of the property upon or adjacent to which such tree, plant or shrub or part thereof is located. The Public Works Director shall give written notice to said owner to remedy the situation. Such notice shall specifically state the period of time within which the action must be taken, which shall be within not less than twenty-four (24) hours nor more than thirty (30) days as determined by the Public Works Director on the basis of the seriousness of the condition of the tree, plant or shrub or danger to the public. If the owner shall fail to remove, treat, or trim said tree, plant or shrub within the time limited, the Public Works Director shall cause the tree, plant or shrub to be removed, treated, or trimmed and shall report the full cost thereof to the Village Administrator, who shall thereupon enter such cost as a special assessment charge against the property.

(2) Removal Standards. In cutting down trees located in public way, the tree must be removed with the root stump grubbed out, or ground out to a depth of at least nine (9) inches below grade measured in a straight line with the normal grade of sidewalk to top of curb. All wood and debris must be removed from the street prior to the end of each working

day, and all holes shall be filled to normal grade level with topsoil as soon as practicable. The abutting property owner shall have a right of first refusal to keep the wood, provided such wood is not diseased.

(G) Prohibited Acts.

(1) Damage to Public and Private Trees. No person shall, without the consent of the owner in the case of a private tree, or without written permits from the Public Works Director in the case of a tree in a public area or public way, perform or cause to be performed by others any of the following acts:

(a) Secure, fasten, or run any rope, wire sign, unprotected electrical installation or other device or material to, around or through a tree;

(b) Break, injure, molest, mutilate, deface, kill, or destroy any tree or permit any fire to burn where it will injure any tree or shrub;

(c) Permit any toxic chemical, gas, smoke, oil, or other injurious substance to seep, drain, or be emptied upon or about any tree or shrub or place cement or other solid substance around the base of the same;

(d) Remove any guard, stake, or other device or material intended for the protection of a public tree or shrub, or close or obstruct any open space about the base of a public tree or shrub designed to permit access of air, water, and fertilizer;

(e) Attach any sign, poster, notice, or other object on any tree, or fasten any guy wire, cable, rope, nails, screws, or other device to any tree; except that the Village may tie temporary "no parking" signs to trees when necessary in conjunction with street improvement work, tree maintenance work, or parades; or

(f) Cause or encourage any fire or burning near or around any tree.

(2) Excavations. All trees on any public area or public way near any excavation or construction or street work shall be sufficiently guarded and protected by those responsible for such work as to prevent any injury to said trees. No person shall excavate any ditches, tunnels, or trenches, or install pavement within a radius of ten (10)

feet from any public tree without a permit from the Public Works Director.

(H) Boulevard Changes Prohibited. No person shall change the condition of any boulevard area within the Village in a residential area, unless changing the surface to grass. Prohibited changes include, but are not limited to, installation of fencing, paving over boulevard areas with concrete, asphalt, recycled asphalt, brick pavers, gravel, aggregate, rocks, or the removal of grass or sod, and/or damage to or removal of boulevard trees. All that part of the boulevard in a residential area not covered by a Village required sidewalk shall be kept free and clear of all noxious weeds and shall not, after the enactment of this ordinance be paved, surfaced, or covered with any material which shall prevent the growth and maintenance of a lawn. Future planting of evergreens in a public way is prohibited. All existing evergreens within a public way must be removed. All existing and future shrubbery within a public way must be removed. Placement of a new sidewalk perpendicular to the street and connecting to the street, also known as a carriage walk, as well as driveway curb cuts and driveway aprons must have permit approval from the Public Works Director. All tree plantings must have a Village-issued permit.

(I) Exceptions to Boulevard Changes. Any improvement that is placed within the boulevard area is done so at the risk of the adjacent property owner. The Village is not responsible for restoring damage caused by any Village activity, including, but not limited to, street maintenance, drainage and utility construction, mowing, trimming and snowplowing. Improvements which interfere with the performance of Village operations or public utilities may be ordered for removal. It shall be unlawful to plant or maintain anything within a public way except grasses within the public ways which must be mowed by the owner of the adjacent lot at all times to a height no higher than four (4") inches and trees in compliance with this Ordinance. However, in areas at least twenty-five (25) lineal feet from a curb corner at an intersection, plants are allowed within five (5) lineal feet measured along the curb line on either side of a mailbox, traffic sign, tree, utility pole, carriage walk or driveway. (The five (5) lineal feet can be all on one side or split between both sides of the mailbox, traffic sign, tree, utility pole, carriage walk or driveway.) Low growing shrubs are also allowed within the five

(5) lineal feet, if their natural mature height is five (5") inches or less. The allowed plants shall not exceed the height of thirty-six (36") inches from the height of the curb and shall not contain grasses or noxious weeds. All such plantings shall be maintained so as to not present hazards to those using the public sidewalk or improved roadway and shall be maintained so as to enhance the appearance and value of the property on which located and thereby the appearance and value of the neighborhood and Village. If plantings are done within this five (5') foot planting area, the boulevard area within this five (5') foot area may be covered with washed river rock or decorative rock matching the same located in adjacent front lot, or decorative mulch matching the same located in adjacent front lot. These are the only substitutes allowed besides grass.

Any owner of adjacent properties to the boulevard who desires a further variance to these boulevard exceptions may apply for the same to the Village Street Committee with complete scale drawings and list of plantings and other changes. The application must be signed by all legal owners of the adjoining property. The application must be accompanied by an application fee as set in the Village Fee Schedule. If a variance is granted, it shall be good for one (1) year. A yearly renewal fee as set in the Village Fee Schedule shall be required to continue the variance, and the renewal variance may be denied by the Street Committee in a majority vote thereof determining that the improvements have not been done in a way that enhances the appearance and the value of the property and neighborhood.

(J) Public Way Restrictions. In addition to the definitions and restrictions contained herein, no person shall place any accessory structure or personal property, including but not limited to fences, landscaping ornaments, stones, and basketball backboards/hoops in or overhanging any public way except one (1) portable planting container every fifty (50') feet of lineal street which shall be no more than twenty-four (24") inches in diameter or a mailbox and its support.

(K) Assessments.

(1) The entire or any part of the costs of protecting, trimming, spraying, planting, renewing, and removal of any tree, shrub, or plant, may be chargeable to and assessed upon the lot or parcels of land upon which such tree, shrub, or

plant is growing or to the owner of the abutting lot or parcel of land.

(2) When so chargeable, the Public Works Director shall keep a strict account of costs of planting, protecting, renewing, removing, trimming, spraying, and caring for trees, shrubs, or plants in front of or on each parcel of land abutting on any street and prior to the first day of November in each year, make a report to the Village Administrator of all work done for which assessments are to be made, stating and certifying the descriptions of land, lots, parts or lots or parcels of land abutting on a street, avenue, or boulevard in which any such work shall have been done and the amount chargeable to each such piece of property.

(3) The amounts so reported to the Village Administrator shall be levied on said lots or parcels of land respectively to which they are chargeable and shall constitute a lien thereon and shall be collected as other special assessments are levied and collected in the Village of West Salem.

(L) General Forfeitures and Penalties. Any person violating any provision of this Section, including those provisions of the Wisconsin Statutes or other materials which are incorporated by reference, shall upon conviction thereof forfeit not less than \$20.00 nor more than \$1,000.00 or as set forth in Appendix "A" Fee Schedule and the costs of prosecution, and in default of payment of such forfeiture and the costs of prosecution shall be imprisoned in the County Jail until payment of such forfeiture and the costs of prosecution, but not exceeding ninety (90) days for each violation, provided, however, that in no case shall the forfeiture imposed for a violation of any provision of this Section exceed the maximum fine for the same offense under the laws of the State of Wisconsin.

(M) Appeal from Determination or Orders. Any person who receives a determination or order under this Section from the Public Works Director and objects to all or any part thereof shall have the following rights for review and appeal, subject to the provisions of Chapter 68, Wis. Stats.:

(1) The first step is for the aggrieved person to make a written request, mailed or delivered, to the public works director within thirty (30) days of the notice of such

5.09(M)(1)

determination. The request for review shall state the ground or grounds upon which the person aggrieved contends that the decision should be modified or reversed. The request shall be made to the Public Works Director who made the initial determination. The aggrieved party shall have the right to file with the request, in a timely manner, written evidence and argument in support of the person's position with respect to the initial determination. The Public Works Director, shall within fifteen (15) days of the receipt of the written request for review or in any extended time as agreed to by the aggrieved person and the Public Works Director complete a review of the initial determination and mail or deliver to the person aggrieved a copy of the municipal authority's decision on review, which shall state the reasons for such decision. The review decision shall advise the aggrieved person of the right to appeal the decision and the timeframe within which that may be taken and the office or person with whom the notice of appeal shall be filed.

(2) An aggrieved person who has received a review decision which they desire to appeal may file an appeal from that decision within thirty (30) days of the notice of the decision. This appeal shall be filed with the Village Administrator who shall immediately convey it to the Street Committee. The Street Committee shall provide the aggrieved person an appeal hearing within fifteen (15) days of its receipt of the notice of appeal. The Street Committee shall serve the aggrieved person with a notice of such hearing by mail or personal service at least ten (10) days before the hearing. At the hearing the parties may be represented by attorneys and may present evidence and call and examine witnesses and cross examine witnesses of the other parties. All witnesses shall be sworn. The street committee shall serve as the decision maker on the appeal. The Public Works Director may not serve on the street committee for purposes of this appeal if they are a member of the same. The Street Committee shall make a written decision within twenty (20) days of completion of the hearing complaint with the terms of the statute.

5.10 Littering of Streets, Alleys, Sidewalks and Public Places Prohibited.

(A) Operation of Vehicles. No contractor or other person shall operate or cause to be operated a vehicle, which shall litter or soil any street, alley, sidewalk or other public places within the Village.

(B) Adjacent to Construction Sites. All streets, alleys, sidewalks or public places adjacent to any building or construction site shall be maintained in a litter-free condition at all times. This shall include such soiling or littering caused by erosion, landslides or general construction activities at any such site.

(C) Operation of Vehicles Out of Construction Sites. No contractor shall allow any vehicle to operate out of any construction site, regardless of whether the same shall be operated by the contractor, his agents, employees or subcontractors, in such a manner as to dump, scatter or deposit any rubbish, stones, wire, earth, ashes, cinders, sawdust, hay, glass, manure, filth, paper, snow, ice, dirt, grass, leaves, twigs, shrubs, construction waste, garbage or other offensive or nauseous material on any street, alley, or public place. The Village Administrator shall be and hereby is empowered to order any contractor to take such precautions as he deems necessary to prevent any such foreign materials from being deposited on the street, alley or public place, and to remove all foreign material on the street, alley or public place.

(D) Responsibility of Contractor. Whenever a contractor is engaged in any construction or maintenance activity, it shall be his responsibility to see that this Section is not violated by himself, his agents, employees, subcontractors, or haulers of materials and supplies. If more than one contractor, or any governmental unit is involved in work, which contributes to the littering of streets, alleys, sidewalks or other public places in the same site or area, they shall be separately and jointly responsible for the observance of this Section.

(E) Cleaning Up. If a street, alley, sidewalk or public place shall become soiled or littered through any of the aforementioned means, the person or persons responsible shall cause such soiling or littering to be cleaned up forthwith.

(F) Closing Construction Site. If the person or person responsible fail to comply with any order of the Village Administrator to clean up, or to take such precautions as deemed necessary to prevent foreign materials from being deposited on the street, alley or public place, the Administrator or any commanding officer of the Police Department may order (in writing) all ingress and egress to the site or area involved stopped until compliance with the order is affected.

(G) Exceptions. This Section shall not apply to construction work within the barricaded area of work being done in the street right-of-way pursuant to a Village excavation permit authorizing the same, or to emergency or other work being performed within a barricaded area pursuant to a Village contract or by Village or other emergency forces, provided that excavated material stored temporarily within the barricaded area shall not be scattered or carried or allowed to accumulate outside of such area.

5.11 Damage to Streets, Curb and Gutter and Sidewalks. No person or corporate officer, employee or agent shall operate any vehicle or machinery on or over Village streets, curb and gutter or sidewalks in such a manner or of such weight or construction as shall cause damage to streets, curb and gutter or sidewalks.

5.12 Placement of Dumpsters on Public Ways. No person or business engaged in the business of leasing dumpsters or refuse containers for the storage of materials discarded or used in the process of construction or alteration of buildings are to place or allow for placement of such dumpsters or refuse containers in any street, alley, highway, sidewalk, or other public way within the Village without first obtaining a permit from the Village Administration Office.

(A) Application. Applications for the dumpster or refuse container permit shall be on forms provided by the Village Administration office. Each person engaged in the business of leasing dumpsters or refuse containers which are placed in any street, alley, highway or other public way within the Village shall make a separate application and said permit shall be valid for the period of time specified thereon not to exceed fourteen (14) days. Written extensions for fourteen (14) additional days may be granted, for good cause shown, by the Village Administrator.

5.12(A)(1)

(1) Fees. Each dumpster permit is good for fourteen (14) days along with additional extensions of fourteen (14) days each. There shall be a permit fee for each fourteen (14) day period. The permit fee for each dumpster placed in any street or public way within the Village shall be as set forth in Appendix "A" Fee Schedule.

(2) Insurance. Prior to issuance of a permit provided for in this Section, the permittee must furnish the Administration office satisfactory written evidence that it has in force and will maintain during the term of the permit public liability insurance of not less than \$200,000 for one (1) person, \$500,000 for one (1) accident, and property damage insurance of not less than \$100,000. Each permittee shall also furnish to the Village of West Salem a certificate of insurance naming the Village of West Salem as additional insured and evidence of the same shall be on file with the Administration office at all times during the term of the permit.

(3) Security. Each permittee shall provide a \$500 bond from an approved insurance or security company or letter of credit meeting the approval of the Village Administrator in order to insure removal of any dumpster or refuse container ordered removed and to cover any damages that may occur to any public property as a result of the placement or removal of such dumpster.

(B) Regulations

(1) Each dumpster or refuse container shall have posted thereon the name, address and telephone number of the owner.

(2) Each dumpster or refuse container shall be equipped with reflectorized tape and flashing lights on at least two (2) sides so as to alert all persons of its presence during hours of darkness.

(3) No dumpster or refuse container shall be placed in any moving lane or traffic.

(4) No dumpster or refuse container shall be placed so as to interfere with public works construction being performed by the Village.

(5) No dumpster or refuse container shall be placed within fifty (50) feet of the radius of any intersection.

5.12(B)(6)

(6) No dumpster or refuse container may be placed on any public right of way between November 1 and April 1.

(7) No dumpster or refuse container may be placed on South Leonard Street between Hamilton to Elm Street except as provided herein. Dumpsters and refuse containers normally must be placed behind any South Leonard Street residence and/or business between Hamilton and Elm Street. If the owner and contractor believe there are extenuating circumstances that a dumpster or refuse container needs to be placed on South Leonard Street, a Special Exception for Dumpster Location Request form shall be completed by both the owner of the property and any contractor requesting the dumpster permit and said form shall be submitted to the Village Board for consideration and determination. If an exception is granted, it will run for a fourteen (14) day period and no dumpster shall be placed on South Leonard Street from Hamilton to Elm Street for more than fourteen (14) days. Both the owner and contractor shall be separately liable for a violation of the provisions of this Section 5.12(B)(7) and shall be required to forfeit One Hundred (\$100.00) Dollars. Each day's continuance of such violation shall constitute a separate offense. Fees as set forth in this Section may be amended from time to time by Resolution of the Village Board.

Once a dumpster has been removed which was granted a special exception, as long as it was removed within the fourteen (14) period and remains removed from South Leonard Street for seven (7) days, the owner and contractor may apply for another special exception for another fourteen (14) day dumpster permit; however, the fee for this dumpster permit shall be two (2) times the initial fee with all of the same rules applying if this permit is granted, including Village Board approval. If more than two (2) special exception permits are needed, the same rules apply to each application as did for the second and each time an additional special exception permit is applied for within one (1) year of any other such permit the fee shall double again based on the previous fee paid. The Village Board shall grant the special exception permits only where there are substantial amounts of building material which needs to be removed from the front façade of the building or the front interior portion of the building due to decay and deterioration, substantial remodeling, or rebuild due to fire, wind, or some other natural disaster but where the rear of the building is not also going to be substantially reconstructed which would prevent the hauling

of all material through the back. It is also within the

5.12(B)(7)

discretion of the Village Board to grant this permit where due to the size of the lot between the rear of the building and the rear alley on the west side of South Leonard Street there is not sufficient room to place a dumpster in a position to be usable under the circumstances. Each time multiple applications are filed a detailed explanation must be submitted as to why the work could not be completed under the previous permits. Additional permits should only be granted if the work being done during the prior permit was performed on a full time and fully-staffed basis.

5.13 Street Privilege Permit.

(A) When Required. Permits for the use of streets, alleys, sidewalks, or other public ways or places of the Village may be granted to applicants by the Police Department for the purpose of encumbering the street, alley, sidewalk, or public way with materials or equipment necessary in and about the construction, reconstruction, maintenance, repair, or demolition of any building or structure, or part thereof, or appurtenances thereto, provided such applicant has complied with the other requirements of this Section and has obtained a building or wrecking permit as required by this Code. Street Privilege Permits required hereunder shall be issued by the West Salem Police Department.

(B) Fee. Application for such permit shall be made to the West Salem Police Department on a form provided by the Police Department with notification given to the Public Works Director and Village Administrator. The applicant shall pay a fee as set forth in Appendix "A" Fee Schedule.

(C) Condition of Occupancy. The permission to occupy or obstruct the streets, alleys, sidewalks, or public grounds is intended only for use in connection with the actual erection, alteration, repair, removal, or moving of buildings or structures and shall be given upon the following terms and conditions and subject to revocation without notice by the Police Department for violation thereof:

(1) Such temporary obstruction shall cover not more than one-third (1/3) of any street or alley.

(2) Obstructions shall be sufficiently lighted at night so as to be in full view of the public from all directions.

(3) Sidewalk traffic shall not be interrupted, but

temporary sidewalks of not less than four (4) feet in width
5.13(C)(3)

guarded by a closed fence at least four (4) feet high on both sides may be maintained during the period of occupancy.

(4) The process of construction or demolition of any building or structure shall be as continuous as practicable until completed, and if ordered by the Police Department, shall continue during all hours of the day and night.

(5) Upon termination of the work necessitating such obstructions, all parts of the streets, alleys, sidewalks, or public grounds occupied under the permit shall be vacated, cleaned of all rubbish and obstructions, and placed in a safe condition for public travel at the expense of the permittee.

(D) Termination. All Street Privilege Permits shall automatically terminate at the end of the period for which such permit was acquired and the fee paid therefor, but in no event will a permit be issued to exceed ninety (90) days.

(E) Special Regulations. The Police Department, in addition to the other requirements of this Section, prescribe additional conditions and restrictions for any permit issued hereunder. Street Privilege Permits will not be issued for any period between November 1 through April 1.

(F) Insurance. Prior to issuance of a permit, the applicant must furnish the Police Department satisfactory written evidence that applicant has in full force and will maintain during the life of the permit, public liability insurance in amounts not less than \$200,000 each person, \$500,000 each accident for bodily injury, and \$100,000 for property damage.

(G) Removal by Village. In addition to any other penalty imposed, if the owner or occupant of the premises adjoining any unlawfully obstructed sidewalk shall refuse or neglect to remove such obstruction within twenty-four (24) hours after notice from the Police Department, it shall be the duty of the Police Department to remove such obstruction and make return of the cost and expense thereof to the Village Administrator who shall enter such cost on the next annual tax roll as a special charge against the property abutting such obstructed sidewalk, and such sum shall be levied and collected as other special taxes against the real estate.

5.14 Penalties. Except where otherwise provided, any person

violating any provision of this Chapter including those provisions of the Wisconsin Statutes or any other materials incorporated by reference shall upon conviction thereof forfeit not less than Twenty (\$20.00) Dollars or more than Five Hundred (\$500.00) Dollars.