

TITLE 6

Public Works

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Title 6 ► Chapter 1

Grades

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Sec. 6-1-1 Establishment of Grades.

- (a) **Grades to be Established.** The grade of all streets, alleys and sidewalks shall be established by resolution by the Common Council, upon the recommendation of the Director of Public Works, and the same recorded by the City Clerk-Treasurer in his/her office. No street, alley or sidewalk shall be worked until the grade thereof is established. In all cases where the grade of sidewalks shall not have been specifically set by ordinance, the sidewalks shall be laid to the established grade of the street. All such grades heretofore established are hereby confirmed.
- (b) **Sidewalk Grades.** Whenever a street shall be improved for the first time or the grade thereof changed and the street improved so as to conform to the new grade, the grading of the sidewalk shall be considered a part of the improvement, shall be let by contract with the other work of improving such street, and the expense thereof shall be provided for and borne in all respects like that of improving the street, but the construction shall be done by the owners of the abutting lots or parcels of land or at their expense as hereinafter provided. Before such construction is commenced by the owners of the abutting lots or parcels of land, the Common Council, or its designee, shall, upon application by the respective owners for a sidewalk grade, cause such sidewalk grade to be established.
- (c) **Grades and Elevations.** All grades and elevations hereinafter fixed and established and all grades and elevations that shall or may be hereafter established in the City of Owen are and shall be described in feet and in decimals of a foot above a certain assumed base.

State Law Reference: Sections 62.14(7) and 62.16, Wis. Stats.

Sec. 6-1-2 Alteration of Grade Prohibited.

No person shall alter the grade of any street, alley, sidewalk or public ground or any part thereof in the City of Owen by any means whatsoever unless authorized or instructed to do so by the

Common Council or Director of Public Works. All such alterations of grade shall be recorded in the office of the City Clerk-Treasurer.

Sec. 6-1-3 Regulation of Underground Utilities.

- (a) **Elevation.** The grade or elevation of all underground construction in public terraces or other public property shall be a minimum of three (3) feet below the established grade of the street, alley, park, public property or easement. The three (3) feet shall be measured between the top of the established grade and the top of the underground construction.
- (b) **Approval of Location.** The location of any and all such underground construction must have the approval of the Director of Public Works.
- (c) **Filing Plans.** Complete plans for any such construction must be filed with and be approved by the Director of Public Works before construction can begin.
- (d) **Inspection.** On request of the Director of Public Works, the utility company must provide opportunity for City officials to check any construction before it may be covered.
- (e) **Conflict with Other Utilities.** If the grade or elevation herein set for the underground construction of utilities shall, in any instance, conflict with other existing utilities, the utility shall be required to lower the elevation of its underground construction at the election of the Director of Public Works, and in accordance with its directions and specifications.
- (f) **Establishment of Grade.** At the request of the utility company, the Director of Public Works shall, at the City's expense, give the utility company an established grade on any streets, alleys, public parks or easements where it proposes to install underground utilities.
- (g) **Emergency.** In case of an emergency, when immediate action is necessary in order to protect life or property, the utility company may proceed with underground construction subject to obtaining the approval of such work by the Director of Public Works as soon thereafter as is reasonably possible.
- (h) **Restoration of Surface.** In the event of any such underground construction, the utility company shall leave the surface of the ground, or road, in the same condition as before said work was commenced, and in the event of its failure so to do, the City may proceed to place the surface of the ground or street in such condition at the utility company's expense. Such work shall comply with the provisions of Sections 6-2-3 and 6-2-4.
- (i) **Non-Relief from Obligations.** Compliance with this Section does not relieve the utility company from any responsibility of any kind whatsoever by reason of the widening of the travelway, or any other improvements which may become necessary; nor does it relieve it from any liability of any kind or nature whatsoever. Compliance with this Section shall not relieve the utility company from the responsibility or obligation of removing, relocating or moving any of its mains, pipes or property due to the opening, widening or improving of streets, or due to any other changes which may occur by reason of which such moving, relocation or removing may be necessary.

Sec. 6-1-4 Authorizaiton Required for Alteration of Grade.

Except as provided in this Section, no land shall be filled, cut or graded within the City of Owen nor shall the existing drainage or topographical characteristics of land within the City be changed without the owner of such land first obtaining authorization from the Director of Public Works allowing such filling, cutting or change in drainage or topographic characteristics, as follows:

- (a) **No Authorization Required for Certain Activities.** No authorization shall be required if the filling, cutting, grading or other change in the topographic characteristics of the property involves the placement, removal or movement of not more than twenty (20) total cubic yards of material and will not result in any alteration of the existing drainage of the property.
- (b) **Authorization From Director of Public Works Required For Certain Activities.** Authorization from the Director of Public Works shall be required if the filling, cutting, grading or other change in the topographic characteristics of the property involves the placement, removal or movement of more than twenty (20) cubic yards, but not more than one hundred (100) cubic yards, of material and will not result in any alteration to the existing drainage of the property. Application requirements are as follows:
 - (1) **Request.** The authorization request shall be to the Director of Public Works. The Director of Public Works may require the following:
 - a. A site plan showing the existing and proposed improvements on the property and the areas that will be affected in sufficient detail to allow the Director of Public Works to properly evaluate the request.
 - b. A non-refundable fee as prescribed in Section 1-3-1 for administrative expenses.
 - (2) **Request Denials.** The Director of Public Works may deny the authorization request if he/she determines that:
 - a. The proposed activity [including any prior activity of a similar nature within five (5) years of the date of the application] involves the placement, removal or movement of more than twenty (20) total cubic yards of material;
 - b. The proposed activity will alter the existing drainage of the property;
 - c. The proposed activity will have a material adverse effect on the property, any adjoining property, or the residents of the City; or
 - d. The proposed activity violates any other standard established by this Section or any other regulation, ordinance or statute.
 - (3) **Notification.** The Director of Public Works shall give authorization or notify the property owner of denial within five (5) business days from the receipt of the authorization request.
 - (4) **Appeal of Denials.** A property owner whose application is denied shall have the right to appeal the denial to the Common Council by filing a written notice of appeal with the City within fifteen (15) days from the date of the denial.
- (c) **Permit From Common Council Required For Certain Activities.** A permit from the Common Council shall be required if the filling, cutting, grading or other change in the

topographic characteristics of the property involves the placement, removal or movement of more than one hundred (100) total cubic yards of material and will not result in any alteration to the existing drainage of the property. Application requirements are as follows:

- (1) **Application.** The application for such permit shall be on a form provided by the City and shall include a site plan showing all existing and proposed improvements on the property and a topographic map showing the topography of the land both before and after the implementation of the proposed change in the topography of the land with sufficient detail to allow the Common Council to properly evaluate the application.
 - (2) **Fee.** A non-refundable fee as prescribed in Section 1-3-1 must accompany the application.
 - (3) **Application Denials.** The Common Council shall deny the application if the Common Council determines that:
 - a. The proposed activity [including any prior activity of a similar nature within five (5) years of the date of the application] involves the placement, removal or movement of more than one hundred (100) total cubic yards of material;
 - b. The proposed activity will have a material adverse effect on the property, any adjoining property or the residents of the City; or
 - c. The proposed activity violates any other standard established by this Section or any other regulation, ordinance or statute.
 - (4) **Notification.** The Common Council shall issue the permit or notify the property owner of its denial within thirty (30) days from the receipt of the properly completed application, site plan and topographic map.
 - (5) **Appeal of Denials.** A property owner whose application is denied shall have the right to appeal the denial to Circuit Court after first filing a written notice of appeal with the City within fifteen (15) days from the date of denial.
- (d) **Other Requirements And Standards.** The filling or cutting of any property grading or other change in the drainage or topographic characteristics of any property shall also be subject to the following requirements and restrictions:
- (1) **Impact on Other Properties.** No change shall be made in the existing topography of any property that would alter the existing drainage or topography in a way so as to have a material adverse effect on any other property, except with the written consent of the owner(s) of each affected property.
 - (2) **Alteration of Existing Drainage.** No change shall be made in the existing topography that would alter the existing drainage characteristics of the property in a manner that would divert additional drainage waters onto any highway, sidewalk or public lands without the approval of the Common Council.
 - (3) **Angle of Slopes.** Any slope resulting from the filling, cutting or change in topography of any parcel shall not exceed the normal angle of slippage of the material involved, and shall not exceed a slope of a ratio greater than four (4) horizontal to one (1) vertical within twenty (20) feet of any boundary line of a parcel.

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- (4) **Deposit of Fill in Conservancy Areas.** Fill shall not be deposited in any land within any conservancy zoning district without prior site plan approval of the Common Council.
 - (5) **Deposit of Fill in Wetland Areas.** Fill shall not be deposited in any land designated as a wetland by the Wisconsin Department of Natural Resources, except in full compliance with all applicable regulations, ordinances and statutes.
 - (6) **Deposit of Fill in Floodplains.** Fill shall not be deposited in any land designated as a floodplain by the Federal Emergency Management Agency (FEMA), Wisconsin Department of Natural Resources (DNR) or the City of Owen, except in full compliance with all applicable regulations, ordinances and statutes.
 - (e) **Construction Activities Exempted.** This Section shall not apply to on-site activities such as excavations, filling, cutting, grading, stockpiling and other similar activities undertaken in connection with the construction or alteration of structures for which a building permit has been obtained; provided that such activities are conducted in compliance with the requirements of the building permit and all other permits, requirements, regulations, ordinances and statutes.
 - (f) **Erosion Control Requirements.** Any person engaged in filling, cutting, grading or any other activity requiring a permit under this Section shall utilize such silt fencing, erosion barriers, vegetative cover or other measures as shall be reasonably necessary to minimize and erosion resulting from the activity.
 - (g) **Liability To Others.** The issuance of a permit under this Section shall not relieve the person conducting the activity from any liability arising out of the activity or subject the City to any liability for such activity.

Title 6 ► Chapter 2

Streets and Sidewalks

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

No owner or occupant shall allow the sidewalk abutting on his/her premises to be littered with rubbish or dirt. If such owner or occupant shall refuse or fail to remove any such rubbish or dirt when notified to do so by the Common Council, or its designee, the City may cause the same to be done and report the cost thereof to the City Clerk-Treasurer who shall spread the cost on the tax roll as a special tax against the premises, pursuant to Sec. 66.0627, Wis. Stats., or such cost may be recovered in an action against the owner or occupant.

Sec. 6-2-2 Construction and Repair of Sidewalks.

(a) Construction and Repair Procedures.

- (1) **Construction and Repair Regulated.** No person, whether owner, builder or contractor, shall build any new sidewalk or repair or renew, or cause to be built, repaired or renewed any existing sidewalk contrary to the provisions of this Chapter, except where such a change in the specifications hereinafter set forth shall be deemed in the best interests of the City of Owen.
- (2) **Council May Order; Standards.** The Common Council may determine that sidewalks be constructed and establish the width, determine the material and prescribe the method of construction of standard sidewalks pursuant to this Section. The Common Council shall bid and award contracts for all sidewalk construction and reconstruction projects.

(b) Sidewalks Required.

- (1) The following conditions shall require the installation of sidewalks, per resolution of the Common Council.
 - a. On state and county highways improved with curb and gutter.
 - b. On arterial and collector streets improved with curb and gutter.
 - c. Around any residential block in which sidewalk exists along fifty percent (50%) or more of the total length around said block.
 - d. Whenever the Common Council deems sidewalks to be necessary for safety purposes.
 - e. When required under Title 14 with a new subdivision and land division.
- (2) Areas of the community that meet the criteria to require sidewalks, but which presently do not have sidewalks, may be required per resolution of the Common Council, to have sidewalks installed in the future.

(c) Cost.

- (1) **Sidewalks in New Subdivisions.** Sidewalks required in new subdivisions and developments shall be paid for by the land divider, at his/her cost, pursuant to Title 14 of this Code of Ordinances. New sidewalks constructed in existing areas of the City shall be paid for by the City.
- (2) **Sidewalk Reconstruction or Repair.** The cost of sidewalk reconstruction or repair shall be borne by the City of Owen.
- (3) **City to Act as Own Contractor.** Because it is in the public interest to expedite construction as required, the City of Owen shall act, where feasible, as its own contractor on any sidewalk project or shall select a private contractor to perform such work.

(d) Contract with City Required. No person shall hereafter lay, remove, replace or repair any public sidewalk within the City of Owen unless he/she is under contract with the City to do such work.

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

- (1) **General.** Concrete sidewalk construction shall meet the specifications and provisions set forth in this Section and shall be constructed in locations and to line and grade as established by the City. All sidewalks constructed in the City shall conform to the line and grade established by the ordinances or resolutions of the City. Where no grade has been established as ascertained by the records, the City Engineer shall prepare and report a grade for the approval of the Common Council; and, when the same has been established, the City Engineer or Public Works Director shall stake out the sidewalk as ordered by the Common Council. No sidewalk shall be laid under the provisions of this Section until a grade therefor has been established by the City.
- (2) **Subgrade.** All earth, dirt and material shall be removed to a depth, not less than eight (8) inches, ten (10) inches across private driveways, below the grade line; and the space shall be filled with crushed stone, sand or gravel. The base shall be left four (4) inches thick after being tamped, with the stone or gravel to be not larger than one and one-half (1-1/2) inches in diameter and to be free from dirt, dust and foreign matter. Soft, porous and unsuitable subgrade material shall be removed and replaced with sand, gravel, or other satisfactory material, and the subgrade shall be thoroughly and uniformly compacted and moistened immediately before the concrete is placed. On embankments, the subgrade shall extend at least one (1) foot beyond each edge of the sidewalk.
- (3) **Surplus Excavation and Fill Between Sidewalk and Curb.** All surplus earth and other material excavated from the line of work, which may not be required for filling, shall be hauled. Where the sidewalk does not abut the curb, gutter, pavement or other structures and when the concrete has been cured and forms removed, the space along the sides shall be backfilled with a satisfactory soil thoroughly compacted. Backfill shall be approved by the Director of Public Works.
- (4) **Concrete.** The minimum quantity of cement per cubic yard shall be six (6) sacks of ninety-four (94) pounds each. Concrete shall be mixed for at least one (1) minute. Gravel shall be of good quality and washed. Concrete shall test three thousand (3,000) pounds compression in twenty-eight (28) days. Bituminous sidewalks are prohibited.
- (5) **Forming.** Concrete shall be placed in straight forms of wood or metal of sufficient strength to resist springing, tipping or other displacement during the process of depositing and consolidating the concrete. Concrete shall be placed in the forms on a moist subgrade, deposited just above the finished grade and consolidated and spaded sufficiently to bring the mortar to the surface and to prevent honeycombing. It shall then be struck off level with the top of the forms and finished with wooden flats. Forms shall be securely fastened, staked, braced and held firmly to required line and shall be sufficiently tight to prevent leakage of mortar, and all forms shall remain in place for twenty-four (24) hours after pour.

- (6) **Jointing, Floating and Finishing.** Soon after screening and while the concrete is still pliable, the surface shall be floated with wood, cork or metal floats or by a finishing machine. At all places where the sidewalk intersects another sidewalk or curb-line, a one-half (1/2) inch expansion joint shall be placed. Transverse expansion joints of one-half (1/2) inch thick and four (4) inches wide and five (5) feet long or premolded material shall be located every thirty (30) feet. Sidewalks must be marked off to make blocks five (5) foot square and be at right angles to the parallel lines. Any new sidewalk adjoining an old sidewalk or a sidewalk which abuts curb and gutter shall have one-half (1/2) by four (4) inch expansion joints of premolded material.
- (7) **Slope.**
 - a. All forms must be approved by the Director of Public Works or other inspector designated by the Director of Public Works before concrete is poured. To provide adequate drainage, the sidewalk shall slope toward the curb at a minimum rate of one-half (1/2) inch per foot of width of sidewalk. All joints and edges shall be finished with a one-fourth (1/4) inch radius edging tool.
 - b. In cases where the grade exceeds fifteen percent (15%), steps or special construction shall be required to fit the existing conditions. Such details shall be prepared by the City Engineer and approved by the Common Council before construction of the walk is started.
 - c. Sidewalks shall be constructed within the limits of the street right-of-way (terrace), and unless otherwise specifically indicated, there shall be a one (1) foot strip of street property left between the property line and the edge of the sidewalk.
- (8) **Width and Thickness.**
 - a. Residential walks shall be a minimum of five (5) feet in width and not less than four (4) inches thick, or shall match existing sidewalk width in that block. However, in driveway approaches, the minimum sidewalk thickness shall be six (6) inches. Such sidewalks shall have a grade one (1) inch higher than the adjacent curb on the curb side of the sidewalk. All such sidewalks shall be constructed eight (8) inches from the adjacent lot line.
 - b. In the case of a laydown type curb, the pitch shall be one-half (1/2) inch per foot from the curb in the parkway to the sidewalk with a three (3) inch minimum.
 - c. Sidewalks in front of commercial or industrial establishments shall have a width as determined by the Common Council and be five (5) inches thick, except within driveway approaches where the minimum thickness shall be seven (7) inches.
 - d. One-half (1/2) inch reinforcement rod shall be used when replacing or repairing sidewalks over alley entrances.
- (9) **Finishing.** The concrete shall be struck off true to grade, finished smooth and given a broom finish in transverse direction. Edges and joints shall be given a finish with a one-quarter (1/4) inch radius edging tool. Dry cement shall not be spread on a wet

surface to take up excess water. Finishing operations shall be delayed until water has disappeared. No tool marks shall be left on exposed surfaces. In case of rain, the walk shall be covered to protect the surface from being damaged. Walks shall be kept free from all traffic at normal temperatures for forty-eight (48) hours and in cold weather [below fifty (50) degrees F.] for ninety-six (96) hours.

- (10) **Curing and Drying.** As soon as any of the concrete work herein before mentioned has been finished and hardened sufficiently to prevent excessive marring of the surface, it shall be cured and protected against rapid drying. Failure to comply with this requirement shall be deemed sufficient cause for suspension of the work. Curing shall be accomplished by the "Impervious Coating," "Wet Fabric" or "Paper" methods. For impervious coating or membrane curing, only those materials meeting requirements of ASTM Spec. C156-44T, "Method of Test for Efficiency of Materials for Curing Concrete" shall be used. Said specifications are hereby adopted by reference as if fully set forth herein. Concrete shall be kept moist by sprinkling, covering or a combination of both for a period of five (5) days.
 - (11) **Cold Weather Requirements.** When the temperature is less than forty degrees Fahrenheit (40°F), all concrete placed in the forms shall have a temperature between fifty degrees Fahrenheit (50°F) and seventy degrees Fahrenheit (70°F) and shall meet the requirements as per Wisconsin Department of Transportation specifications for cold weather concrete.
 - (12) **Variances.** Where the location of a sidewalk in accordance with the specifications established herein would severely conflict with the location of trees, or the root systems thereof, a written variance to the specifications may be issued by the Director of Public Works permitting the sidewalk to be located so as to reduce such conflict. No variance shall be issued if the public safety or welfare would be adversely affected thereby.
 - (13) **Higher Standards.** Where deemed necessary by the City, higher sidewalk standards may be required by the Common Council or Director of Public Works.
- (f) **Repair or Replacement of Defective or Damaged Sidewalks.**
- (1) **Sidewalk Repair/Replacement.**
 - a. Normal repair and/or replacement of existing sidewalks is done by the City pursuant to Subsection (c) above.
 - b. Property owners installing new driveways, or making any other improvements affecting or altering existing curbs, gutters, sidewalks or driveway approaches shall be responsible for effecting repairs or reconstruction of such curbs, gutters, sidewalks or driveway approaches and shall be responsible for the cost of such construction, repair, or reconstruction. Property owners who damage such improvements shall also be responsible for the cost of such repair or reconstruction (i.e. damage due to construction equipment or the placement of a dumpster).
 - c. Pursuant to Sec. 66.0907, Wis. Stats., the Common Council may order at any time property owners to repair or remove and replace any sidewalk which is

unsafe, defective or insufficient, or which is damaged by the acts of the property owner or his/her agents. If the property owner shall fail to so repair or remove and replace such sidewalk within twenty (20) days after service of the notice provided in the Wisconsin Statutes, the Common Council or its designee shall repair or construct such sidewalk and the City Clerk-Treasurer shall enter the total cost thereof upon the tax roll as a special tax against said lot or parcel of land. If an emergency situation exists which is caused by a sidewalk in need of repair, the Common Council or its designee shall immediately direct the property owner to immediately make repairs. If the property owner shall fail to repair such sidewalk within the required period, the Common Council shall make the necessary repairs and the City Clerk-Treasurer shall enter the total cost thereof on the tax roll as a special tax against said parcel.

(2) **Repair Criteria.**

a. The Common Council may determine that any sidewalk which is unsafe, defective, or insufficient be repaired or removed and replaced with a sidewalk in accordance with this Section. The existence of any one or more of the hereinafter enumerated characteristics may determine whether a sidewalk is defective or insufficient:

1. Three-fourths (3/4) inch or more vertical differential between adjacent individual sidewalk blocks (crack in slab).
2. One and one-fourth (1-1/4) inch horizontal distance between adjacent individual sidewalk blocks.
3. Deterioration of the surface to a vertical depth of one-half (1/2) inch or more within each individual sidewalk block.
4. Cracked blocks (regardless of the width of the crack) on either side of the block that is defective per these specifications.
5. Poles, trees or other objects creating hazards.
6. Sidewalk sections which are out of conformance with design grade to the degree that water ponds.
7. Broken corners which are greater than three (3) inches in any dimension.
8. Blocks deemed to be unsafe because of surface deterioration.
9. Sidewalk blocks which were previously found to be defective upon subsequent inspection.

(3) **Deficiency Formula.** If sixty-five percent (65%) of a property owner's sidewalk blocks are determined to be defective or insufficient, the entire sidewalk shall be replaced.

(4) **Procedure.**

a. **Authority of Council; Inspections.**

1. The Common Council may order by ordinance or resolution sidewalks to be repaired as provided in this Subsection.

2. The Common Council designates the Sidewalk Committee, working with the Director of Public Works, as the body responsible for the inspection of sidewalks in the community. The Sidewalk Committee, working with the Director of Public Works, shall by itself or through a designated agent, recommend which sidewalks in the community are in need of replacement.
 3. By September 1st, the Sidewalk Committee, working with the Director of Public Works, shall inform the City Clerk-Treasurer which sidewalks are recommended for replacement during the next budget year.
 4. Defective sidewalks on streets to be reconstructed are to be replaced in all cases as part of the street reconstruction project.
- b. **Repair Order.** The Common Council may order any sidewalk which is unsafe, defective or insufficient to be repaired or removed and replaced with a sidewalk in accordance with the standard fixed by the Common Council.
 - c. **Notice.** A copy of the ordinance, resolution or order directing the removal, replacement or repair of sidewalks due to damage caused by the property owner shall be served upon the owner or an agent, of each lot or parcel of land in front of which the work is ordered. The Public Works Director or the City Engineer if so requested by the Council, may serve the notice. Service of the notice may be made by any of the following methods:
 1. Personal delivery.
 2. Certified or registered mail.
 3. Publication in the official newspaper as a Class I notice, under Ch. 985, Wis. Stats., Wis. Stats., together with mailing by 1st class mail if the name and mailing address of the owner or an agent can be readily ascertained.
 - d. **Default of Owner.** If the owner neglects for a period of twenty (20) days after service of notice under Subsection (e)(3) to lay, remove, replace or repair the sidewalk he/she has damaged, the City may cause the work to be done at the expense of the owner. All work for the construction of sidewalks shall be let by contract to the lowest responsible bidder except as provided in Sec. 62.15(1), Wis. Stats.
 - e. **Minor Repairs.** If the cost of repairs or any sidewalk damaged by a property owner in front of any lot or parcel of land does not exceed the sum of One Hundred Dollars (\$100.00), the Director of Public Works 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 Section.
 - f. **Expense.** The Director of Public Works shall keep an accurate account of the expenses of laying, removing and repairing sidewalks damaged by a property owner, whether the work is done by contract or otherwise, and report the expenses to the Council. The City shall annually prepare a statement of the expense incurred in front of each lot or parcel of land and report the amount to

the City Clerk-Treasurer. The amount charged to each lot or parcel of land shall be entered by the City Clerk-Treasurer in the tax roll as a special tax against the lot or parcel of land and collected like other taxes upon real estate. The Council by resolution or ordinance may provide that the expense incurred may be paid in up to ten (10) annual installments, and the City Clerk-Treasurer shall prepare the expense statement to reflect the installment payment schedule. If annual installments for sidewalk expenses are authorized, the City Clerk-Treasurer shall charge the amount to each lot or parcel of land and enter it on the tax roll as a special tax against the lot or parcel each year until all installments have been entered, and the amount shall be collected like other taxes upon real estate. The Council may provide that the Public Works Director or City Engineer perform the duties imposed by this Section on the Common Council.

- (g) **Illegal Sidewalks.** No sidewalk which shall be constructed contrary to the provisions of this Section shall be considered a legal sidewalk and the same may be ordered to be replaced with a legal sidewalk and with one that is in conformity with this Section, the same as if no sidewalk whatever had been built or constructed in the place where any such sidewalk is located.

State Law Reference: Sec. 66.0907, Wis. Stats.

Cross-Reference: Section 3-2-15(c).

Sec. 6-2-3 Curb and Gutter Construction.

All cement curb and gutter hereafter rebuilt or constructed in the City of Owen shall be constructed according to the following specifications:

- (a) **Establishment.** No curb and gutter shall be worked until the grade thereof has been established according to the records on file in the office of the City Clerk-Treasurer. No person shall alter the grade of any curb and gutter within the City of Owen by any means whatsoever, unless authorized or instructed to do so by the Common Council or the Director of Public Works.
- (b) **Responsibility for Construction.**
- (1) **New Curb and Gutter; Reconstruction.** The cost of new or reconstructed curb and gutter shall be as prescribed in Section 6-2-2(c) for sidewalks.
 - (2) **Replacement/Repair.** The cost of replacement/repairs for curb and gutter shall be as prescribed in Section 6-2-2(c) for sidewalks.
- (c) **Contract with City Required.** No person shall hereafter lay, remove, replace, or repair any curb and gutter within the City of Owen unless he/she is under contract with the City to do such work.
- (d) **Specifications.** All curb and gutter within the City of Owen shall be repaired, rebuilt and constructed in accordance with specifications prescribed by the Director of Public Works.

Sec. 6-2-4 Excavations of Streets, Alleys, Public Ways and Grounds.

(a) **Permit Required.**

- (1) **Permit to Be Obtained.** No person, partnership or corporation, or their agents or employees or contractors, shall make or cause to be made any opening or excavation in any public street, public alley, public way, public ditch, public ground, public sidewalk or City-owned easement within the City of Owen without a permit therefor from the City Clerk-Treasurer or Director of Public Works.
- (2) **Fee.** The fee each application for a street opening permit shall be as prescribed in Section 1-3-1 plus any actual City expenses. Applications may be made for multiple street openings on one (1) application form, at the required fee; however, each opening must be listed at the time the application is submitted to the Director of Public Works for approval. Permit fees shall be paid to the Clerk-Treasurer who shall issue a receipt therefore. If the street opening is made prior to the receipt of an approved street opening permit from the Director of Public Works, the application and review fee shall be as prescribed in Section 1-3-1 plus any actual City expenses.
- (3) **Fee; Emergency Excavation.** In the event of an emergency excavation for the protection of property, life, health, or safety and as authorized in Section 6-2-4(h), there shall be no permit fee (except any actual City expenses shall be charged to the permittee) provided the application for the street opening permit is filed with the Director of Public Works within two (2) regular business days of the excavation in accordance with Section 6-2-4(h). If the permit application for the emergency excavation is not filed within two (2) regular business days, the application and review fee shall be as prescribed in Section 1-3-1 plus any actual City expenses.
- (4) **Surcharge.** In addition to any permit fees or City expenses, a surcharge shall be levied for any street opening which is in, or disturbs the paved portion (final surface) of any public street, public alley, public way, public ground, public sidewalk or City-owned easement within the City of Owen. The surcharge shall be determined as follows:

Age of the Final Paving	Surcharge
New pavement to one (1) year	5 times the permit fee
1 year to 2 years	4 times the permit fee
2 years to 3 years	3 times the permit fee
3 years to 4 years	2 times the permit fee
4 years to 5 years	1 times the permit fee
More than 5 years	No surcharge

- (b) **Application for Permit.** The application for a permit shall be in writing and signed by the applicant or his/her agent. The applicant shall submit to the City Clerk-Treasurer or

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Director of Public Works, at the time the permit is applied for, sufficient information relating to the work to be done including the general location and nature of the work and the method applicant proposes to use in doing the work. The City Clerk-Treasurer or Director of Public Works shall determine if sufficient information is submitted.

- (c) **City Work Excluded.** The provisions of this Section shall not apply to excavation work under the direction of City departments or employees or to contractors performing work under contract with the City necessitating openings or excavations in City streets.
- (d) **Validity of Permit.** Permits shall be valid for a period of thirty (30) days from the date of approval, except as provided for under Section 6-2-4(g) for pavement replacement.
- (e) **Renewal of Permit.** If operations have begun under an approved permit and will continue beyond the thirty (30) day validation period, the permittee shall apply for a thirty (30) day permit renewal by written request to the City Clerk-Treasurer or Director of Public Works. Permit renewals shall be issued at the discretion of the City Clerk-Treasurer or Director of Public Works.
- (f) **City Standards.** All street work shall be performed in accordance with the current standard specifications for street openings found in this Section and Section 6-2-4. Any damaged curb and gutter, sidewalk or grass-covered area shall be restored to the condition prior to damage.
- (g) **Insurance.** At the time of permit application, a permittee must furnish the City satisfactory written evidence that he/she has in force and will maintain during the life of the permit and the period of excavation, insurance, with the City of Owen named as an additional insured, as follows:
 - (1) **Worker's Compensation.** Worker's compensation with limits as prescribed by the State of Wisconsin.
 - (2) **Motor Vehicle Liability.** Comprehensive motor vehicle liability with limits of Five Hundred Thousand (\$500,000.00) for injuries to one (1) person and Five Hundred Thousand (\$500,000.00) for any one (1) accident and property damage of not less than Five Hundred Thousand Dollars (\$500,000.00). Motor vehicle liability shall cover owned, non-owned and hired vehicles.
 - (3) **General Liability.** Comprehensive general liability, with limits of not less than One Million Dollars (\$1,000,000.00) each occurrence. The insurance coverage shall include the acts or omissions of any contractor, his/her employees, agents or subcontractors, and include explosion, collapse and underground liability coverage. A form of blanket contractual liability to indemnify and save harmless the City of Owen, its officers, agents and employees from any and all liability for accidents or damage caused by or arising from any work covered by the permit shall also be included in such insurance coverage.
 - (4) **Completed Operations and Product Liability.** This policy shall provide completed operations and product liability coverage for the period of time set forth in the permit and any extensions thereof and for a period one (1) year after final completion of the work. Limits of liability shall be the same as general liability.

- (5) ***Umbrella Policy.*** The limits of liability mentioned above can be provided through split limits or through a combination of underlying an umbrella liability. Limits mentioned are minimum to be provided under any policy or combination of policies.
- (h) **Bond/Cash Deposit.**
- (1) Whenever the Director of Public Works estimates that an excavation/opening project will involve over Five Thousand (\$5,000.00) in work and before a permit for excavating or opening any street or public way for such project may be issued, the applicant must execute and deposit with the City Clerk-Treasurer, determined and approved by the Director of Public Works, an indemnity bond or cash deposit, as directed by the City, in the sum of not less than One Thousand Dollars (\$1,000.00) up to Ten Thousand Dollars (\$10,000.00), conditioned that he/she will indemnify and save harmless the City of Owen and its officers from all liability for accidents and damage caused by any of the work covered by his/her permit, and that he/she will fill/restore and place in good and safe condition all excavations and openings made in the street, and will replace and restore the pavement over any opening he/she may make as near as can be to the state and condition in which he/she found it, and keep and maintain the same in such condition, normal wear and tear excepted, to the satisfaction of the Common Council for a period of one (1) year, and that he/she will pay all fines of forfeitures imposed upon him/her for any violation of any rule, regulation or ordinance governing street openings or drainlaying adopted by the Common Council and will repair any damage done to existing improvements during the progress of the excavation in accordance with the ordinances, rules and regulations of the City. Such statement shall also guarantee that, if the City shall elect to make the street repair, the person opening the street will pay all costs of making such repair and of maintaining the same for one (1) year. Recovery on such bond for any accident, injury, violation of law, ordinance, rule or regulation shall not exhaust the bond but it shall cover any and all accidents, injuries or violation of law during the period of excavation for which it is given.
 - (2) An annual bond may be given under this Section covering all excavation work done by the principal for one (1) year beginning January 1, which shall be conditioned as specified above and in the amount determined by the Director of Public Works as necessary to adequately protect the public and the City of Owen.
 - (3) Faulty work or materials shall be immediately replaced by the permittee upon notice by the City. Failure to correct deficiencies shall result in a one (1) year revocation of the right to obtain a street opening permit. The Director of Public Works shall repair the deficiencies and bill the permittee for all labor, materials and equipment used plus twenty percent (20%) for administration.
 - (4) The person who does such restoration shall be responsible therefor for one (1) year from the date of the completion of the work and shall file a written guarantee or surety bond to that effect with the City in an amount determined by the Director of Public Works.

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- (5) Whenever the Common Council shall find that any such work has become defective within one (1) year of the date of completion, it shall give written notice thereof to the contractor or to his/her surety stating the defect, the work to be done, the cost thereof and the period of time deemed by the Common Council to be reasonably necessary to complete said work. After receipt of such notice, the contractor or the surety must, within the time specified, repair the defect or indemnify the City for the cost of doing the work as set forth in the notice.
- (i) **Public Utilities.** All public utilities as defined in Sec. 66.0801 and 196.01, Wis. Stats., are hereby required to be bound by the terms and conditions of this Section and Section 6-2-5, any and all subparagraphs thereunder, except that a public utility as defined within this Section shall not be required to post the indemnity bond.

Sec. 6-2-5 Regulations Governing Excavations and Openings.

- (a) **Notification.** An applicant who has been issued a street excavation permit shall notify the City of the date on which work will begin and the period of time required to complete the project. No excavation authorized under this Chapter may be initiated until such notification has been made by the applicant.
- (b) **Digger's Hotline.** An applicant who has been issued a street excavation permit shall notify, obtain clearance from, and adhere to the requirements of Digger's Hotline. No excavation authorized under this Chapter may be initiated until such notification has been made and clearance has been obtained.
- (c) **Frozen Ground.** No openings in the streets, alleys, sidewalks or public ways shall be permitted between November 15th and May 1st except where it is determined by the Director of Public Works or his/her designee to be an emergency excavation.
- (d) **Protection of Public.**
 - (1) Every opening and excavation shall be enclosed with sufficient barriers, signing, and such other traffic control devices as may be required by the Director of Public Works and in accordance with Section VI of the "Manual of Uniform Traffic Control Devices". Sufficient warning lights shall be kept on from sunset to sunrise. No open flame warning devices shall be used. Except by special permission from the Director of Public Works, no trench shall be excavated more than two hundred fifty (250) feet in advance of pipe or conduit laying nor left unfilled more than five hundred (500) feet from where pipe or conduit has been laid.
 - (2) All barricades shall comply with the following standards:
 - a. Barricades and construction warning signs shall be erected, marked and reflectorized in conformance with the "Manual of Uniform Traffic Control Devices," latest edition and revisions.
 - b. All barricades used at night shall be lighted with an average of one (1) flasher per barricade.

- c. A construction warning sign, illuminated with at least one (1) flasher, shall be placed adjacent to the roadway approximately two hundred (200) feet in advance of the barricaded area.
 - d. 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 (24) hours a day.
- (3) All necessary precautions shall be taken to guard the public effectively from accidents or damage to persons or property through the period of the work. Each person making such opening shall be held liable for all damages, including costs incurred by the City in defending any action brought against it for damages, as well as cost of any appeal, that may result from the neglect by such person or his/her employees of any necessary precaution against injury or damage to persons, vehicles or property of any kind.
 - (4) Unless otherwise approved, a minimum of one (1) lane of traffic in each direction shall be provided. Every effort shall be made on the part of the permittee to provide reasonable access to all properties adjacent to his/her project. In the event traffic is limited to less than one (1) lane in each direction, a flagman or temporary traffic control signal shall be provided so as to safely cycle traffic in each direction past the work area.
 - (5) The permittee shall perform the work in such a manner so as not to disrupt the flow of traffic in the area or endanger the safety of workmen or passersby. It shall be the responsibility of the permittee to prevent traffic backup during construction operation. The permittee shall notify the Director of Public Works twenty-four (24) hours prior to commencement of excavation of the location and extent of the excavation, unless the excavation is an emergency excavation as identified in Section 6-2-4(b).
 - (6) When the operations will result in the loss of any utility service to private properties, the private properties shall be notified in writing or by personal contact at least twelve (12) hours prior to the loss of service, unless the operations are part of an emergency excavation as defined in Section 6-2-4(g).
 - (7) Trenches adjacent to the roadway left open during non-working hours shall be protected with snow fence along the entire trench edge and shall be marked with flashing barricades at each end.
 - (8) No equipment or construction materials may be stored during non-working hours within City roadway right-of-way.
 - (9) No steel track construction equipment may be driven on or over paved City roadways without authorization from the Director of Public Works.
 - (10) Prior to beginning any work on City roadways, the City Clerk-Treasurer's office and Director of Public Works shall be given the names and telephone numbers of at least two (2) contractor employees who may be contacted during non-working hours.

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- (11) Construction materials spilled or tracked on pavement shall be swept off by power broom equipment as soon as practical.
 - (12) No excavated materials may be stored temporarily or permanently within City roadway right-of-way.
 - (13) The City may elect to have the City or an outside contractor make the pavement repair for any street or sidewalk opening, in which case the cost of making such repair and of maintaining it for one (1) year shall be charged to the person making the street opening.
- (e) **Pavement Removal.**
- (1) Removal of existing pavement shall be to neat, straight lines. The permittee shall make a final saw cut in the existing pavement after backfilling. Excavations shall be kept to the minimum possible and acceptable for the convenience and safe performance of his/her work and in accordance with all applicable codes and regulations.
 - (2) Precautions shall be taken to prevent damage to road pavements. Sheathing and bracing or the use of a portable trench box should be used to prevent undermining of material below the existing pavement. If damage is done to the pavement, it shall be restored.
 - (3) If the pavement is damaged during excavation beyond the original saw cut lines, it shall be saw cut again along neat, straight lines. The finished saw cut shall leave a regular rectangular section for pavement replacement. Should the street opening occur within adjacent or close to an existing patch or require more than one (1) opening within a short distance, the permittee shall identify and locate the existing patches or additional openings on the permit application form. The Director of Public Works or his/her designee shall, on the basis of an on-site inspection, approximate the boundaries of the pavement replacement area.
 - (4) Pavement replacement areas with the long dimension in the direction of travel shall have the long dimension parallel with the curb line or the direction of travel. Pavement replacement areas in concrete pavements shall be parallel with or at right angles to the direction of travel.
 - (5) The Director of Public Works or his/her designee may order the permittee to remove and replace up to one (1) full lane width of pavement along the patched or excavated area. Special care shall be taken with concrete pavement to produce a vertical face on the existing concrete at the point of the saw cut to insure a full depth of concrete at the joint.
- (f) **Excavation.**
- (1) All excavated material shall be piled in a manner such that pedestrian and motor traffic is not unnecessarily disrupted. Gutters shall be kept clear or other satisfactory provisions made for street drainage, and natural watercourses shall not be obstructed.
 - (2) Excavated material to be used for backfilling of the trench must be so handled and placed as to be of as little inconvenience as practical to public travel and adjoining tenants.

(g) **Backfilling.**

- (1) Trench backfilling shall be accomplished as follows:
 - a. The backfill from the bottom of the utility pipe/conduit to an elevation one (1) foot above the pipe/conduit shall be fine granular material carefully placed by hand and well-tamped to fill completely all the spaces under and adjacent to the pipe/conduit so as to form a bed that will preclude subsequent settling. Compaction shall achieve a ninety-five percent (95%) of maximum dry density at optimum moisture as determined in accordance with "Method of Test for the Moisture-Density Relations of Soils, AASHTO Designation T 180-74".
 - b. The remainder of the backfill may consist of suitable native soils with proper moisture content for maximum compaction. The contractor shall have and use at the job site a vibrating compactor before starting to backfill. The backfill shall be uniformly compact to at least ninety-five percent (95%) maximum dry density at optimum moisture as determined by the "Method of Test for Moisture-Density Relations of Soils, AASHTO Designation T 180-74".
 - (2) All backfill material shall be free from cinders, ashes, refuse, vegetable or organic matter, boulders, rocks or stones greater than six (6) inches in their greatest dimension, frozen lumps or other material which in, in the opinion of the Director of Public Works or his/her designee, is unsuitable.
 - (3) In refilling the excavation, if there is not sufficient material excavated suitable for refilling, the deficiency shall be made up with material, approved prior to use by the Director of Public Works or his/her designee, hauled in.
 - (4) Wherever an excavation crosses an existing utility, pipe or other structure, backfill shall be carefully compacted in stages from the bottom of the excavation. Any sanitary sewer, storm sewer, water, telephone, natural gas or other service shall not be interrupted by the permittee. It shall be the permittee's responsibility to have the various utilities locate and mark their facilities prior to excavation.
 - (5) The City may perform compaction control tests at such frequency and at such depths as it deems necessary to verify compliance with the compaction requirements of state highway construction standards.
 - (6) All excavations shall be subject to testing by the City. Backfilled material not achieving the above compaction requirements shall be removed and recompactd by the permittee. The cost of any retesting shall be paid by the permittee.
 - (7) When the sides of the trench will not stand perpendicular, sheathing and braces shall be used to prevent caving. No timber, bracing, lagging, sheathing or other lumber shall be left in any trench. At no time shall any street pavements be permitted to overhang the excavation.
- (h) **Notice.** It shall be the duty of the permittee to notify the Director of Public Works and all public and private individuals, firms and corporations affected by the work to be done at least one (1) business day before such work is to commence. The Director of Public

Works shall also be notified at least four (4) hours prior to backfilling and/or restoring the surface.

(i) **Pavement Replacement and Sidewalk, Curb and Gutter and Driveway Restoration.**

- (1) Backfill material shall be left below the original surface to allow for five (5) inches of three (3) inch crushed stone and four (4) inches of three-quarter (3/4) inch crushed stone, plus the thickness of the required pavement structure. If paving will not occur as part of the initial street restoration operation, the balance of the opening to the original surface elevation shall be backfilled with compacted three-quarter (3/4) inch crushed stone.
- (2) Bituminous pavement shall be placed the full depth of the existing pavement or three (3) inches, whichever is greater. Bituminous pavement shall be placed in a maximum of one and one-half (1-1/2) inch layers with each layer compacted to maximum density and shall consist of Wisconsin Department of Transportation Gradation No. 1 for the binder course and Wisconsin Department of Transportation No. 3 for the surface course. The finished surface shall be smooth and free of surface irregularities and shall match the existing pavement and any castings or street appurtenances. Allowable deviations shall be no more than one-quarter (1/4) inch as measured with a ten (10) foot straight edge. If hot mix is temporarily not available, the hot mix shall be temporarily replaced with cold mix. The cold mix shall be removed and replaced with hot mix upon availability.
- (3) Concrete pavement shall be placed to the full depth of the existing pavement or seven (7) inches, whichever is greater. Concrete used shall not contain calcium chloride. The surface shall be given a light broom finish. The edges shall be tooled to prevent spalling at the saw cut edge. The surface shall be evenly and completely sealed with a white pigmented curing compound. The surface shall be protected from traffic for a minimum of three (3) days. Tie bars shall be installed as directed by the Director of Public Works or his/her designee.
- (4) All permanent restoration of street, curb and gutter shall be of the same type and thickness as the curb and gutter which abuts. The grade of the restored curb and gutter shall conform with the grade of the existing adjacent curb and gutter. Existing grass and terrace areas shall be covered with a minimum of four (4) inches of topsoil. Topsoil shall be seeded with perennial grass seed at a rate of two (2) pounds per one thousand (1,000) square feet.
- (5) All permanent restoration of driveways and sidewalks shall conform to the manner of construction as originally placed and to the lines and grades as given by the City Engineer. No patching of concrete driveway areas will be allowed between joints or dummy joints.
- (6) Sidewalks shall be replaced the full width of the walk and minimum length shall be sixty (60) inches. All replaced walk shall be four (4) inches thick, except at driveways where it shall be six (6) inches thick. The new walk shall slope to conform to existing construction across the width of the walk toward the street.

- (7) In emergency excavations during winter months when it is not possible to replace the removed pavement with a like material, the excavation shall be temporarily resurfaced with a minimum of three and one-half (3-1/2) inches of cold mix bituminous material. This temporary wearing surface shall be compacted and rolled smooth. These temporary wearing surfaces shall be removed and replaced with material as specified above by not later than the following June 1st, except as provided above. Permanent pavements shall be replaced within sixty (60) days of the date of the permit.
- (8) When a street is reconstructed, utility laterals shall also be installed.
- (j) **Emergency Excavation.** In the event of an emergency, any person, firm or corporation owning or controlling any sewer, gas main, water main, conduit or other utility in or under any public street, alley easement, way or ground and his/her agents and employees make take immediate proper emergency measures to remedy dangerous conditions for the protection of property, life, health or safety without obtaining an excavation permit, provided that such person, firm or corporation shall apply for an excavation permit not later than the next business day and shall notify City officials immediately.
- (k) **Excavation in New Streets Limited.** Whenever the Common Council determines to provide for the permanent improvement or repaving of any street, such determination shall be made not less than thirty (30) days before the work of improvement or repaving shall begin. Immediately after such determination, the City shall notify in writing each person, utility or other agency owning or controlling any sewer, water main, conduit or other utility in or under said street or any real property abutting said street, that all such excavation work in such street must be completed within thirty (30) days. After such permanent improvement or repaving, no permit shall be issued to open or excavate said street for a period of five (5) years after the date of improvement or repaving unless, in the opinion of the Common Council, or committee thereof, conditions exist which make it absolutely essential that the permit be issued. Every effort shall be made to place gas, electric, telephone and television cable lines in street terraces.
- (l) **Repair by City.** The City may elect to make the pavement repair for any street or sidewalk opening, in which case the cost of making such repair and of maintaining it for one year shall be charged to the person making the street opening. In the event such charges are not paid within ninety (90) days of actual notice of the same having been furnished the applicant and owner of the premises for which said permit was issued, it shall become a lien against said premises and thereafter be assessed and collected as a special tax.
- (m) **Settlement of Work Performed.** Settlement of the street surfacing, curb and gutter and/or driveway approaches, irregardless of who installed such the same, within one (1) year from the date of trench backfilling shall be construed as evidence of inadequate compaction and the contractor who backfilled the trench and the surety shall be responsible for the replacement of the street surfacing. Each successive replacement by the contractor shall be subject to satisfactory performance for a period of one (1) year.

Sec. 6-2-6 Obstructions and Encroachments.

- (a) **Obstructions and Encroachments Prohibited.** No person shall encroach upon or in any way obstruct or encumber any street, alley, sidewalk, public grounds or land dedicated to public use, or any part thereof, or permit such encroachment or encumbrance to be placed or remain on any public way adjoining the premises of which he/she is the owner or occupant. Examples of prohibited encroachments or encumbrances include private underground utility installations such as sprinkler systems and "invisible" dog fencing; as well as decorative berms or plantings within the road right-of-way. Exceptions are provided in Subsections (b) and (c).
- (b) **Exceptions.** The prohibition of Subsection (a) shall not apply to the following:
- (1) Temporary encroachments or obstructions authorized by permit under Section 6-2-6 of this Section pursuant to Sec. 66.0425, Wis. Stats.
 - (2) Building materials for the period authorized by the Director of Public Works which shall not obstruct more than one-half (1/2) of the sidewalk or more than one-third (1/3) of the traveled portion of the street and which do not interfere with the flow in the gutters.
 - (3) Excavations and openings permitted under Sections 6-2-3 and 6-2-4 of this Code.
 - (4) Signs or clocks attached to buildings which project outward from properties not more than six (6) feet from the face of any such building, unless otherwise approved and which do not extend below any point ten (10) feet above the sidewalk, street or alley, unless otherwise approved by the Common Council.
 - (5) Awnings which do not extend below any point seven and one-half (7.5) feet above the sidewalk, street or alley.
 - (6) Public utility encroachments authorized by state law or the Common Council.
 - (7) Planters, benches, hanging flower pots and banners which are part of a motif and which have been authorized by the Common Council, and are located in the C-1 Central Business District, provided that the encroachment shall leave a minimum of four and one-half (4.5) foot width of public sidewalk clearance and all hanging items must be a minimum height of seven and one-half (7.5) feet to the bottom of the hanging fixture above the sidewalk, street or alley.
 - (8) Goods, wares, merchandise or fixture being temporarily loaded or unloaded which do not extend more than three (3) feet on the sidewalk, provided that such goods, wares, etc. do not remain thereon for a period of more than four (4) hours.
- (c) **Merchandise or Personal Property on Sidewalks.** Unless expressly authorized to do so by the Common Council, no person shall use the sidewalk, or any part thereof, for the display of merchandise or the storage of any merchandise or other personal property. The only exception to this provision is that storage of merchandise or other personal property is allowed when it meets all of the below enumerated conditions. Under this exception, property owners may place certain fixtures on sidewalks which immediately adjoin their property if the following requirements are met:

- (1) The property must be located in an area zoned for, or primarily used for, commercial/business uses.
 - (2) Fixture(s) for display of merchandise shall not be physically attached to the sidewalk, any street fixture or any adjacent building, and shall be of a temporary design.
 - (3) The placement of the fixture shall not significantly impede the flow of pedestrian traffic on the sidewalk. No person shall obstruct or impede the pedestrian right-of-way of any paved public sidewalk with any merchandise or personal property, except as provided herein. Merchandise shall be located adjoining the building it is marketed from and shall not encroach more than thirty (30) inches from the building facade and in all cases, the unobstructed sidewalk area must be a minimum of five (5) contiguous feet in width in order to comply with the Americans with Disabilities Act (ADA) requirements, as from time to time amended.
 - (4) Displayed merchandise shall be consistent to that sold within the business and shall not include food or beverage items.
 - (5) Displayed merchandise or personal property must be removed each day following the close of business, but in no event shall the merchandise be permitted outdoors between the hours of 6:00 p.m. and 7:00 a.m. nightly.
 - (6) Displaying merchandise or personal property on a paved sidewalk shall constitute express permission of the property and/or business owner for the City to take corrective, remedial and removal action(s). The City may also prosecute violations of this Subsection and seek injunctive relief, from time to time and at any time. The cost of such correction, remediation, and/or removal shall be paid by the property or business owner(s).
 - (7) The property and business owners are jointly and severally liable for any and all injury to any person or property directly and/or indirectly caused by their joint or several negligence and/or activities occurring on the paved sidewalk under this Subsection.
- (d) **Removal by City for Sidewalk Obstructions and Encroachments.** In addition to any other penalty imposed, if any City enforcement official determines that a sidewalk is unlawfully obstructed in violation of this Section, he/she shall issue a written notice to the owner or occupant of the premises which adjoins the obstructed sidewalk directing that the obstruction be removed within twenty-four (24) hours.
- (e) **Removal by City for Obstruction and Encroachments Located in the City Streets, Alleys, Public Grounds or Lands Dedicated for Public Use.** In addition to any other penalty imposed, if the Chief of Police, Director of Public Works or Building Inspector determines that a City street, alley, public grounds or land dedicated for public use is obstructed or encumbered, he/she shall issue a written notice to the property owner of the premises which adjoin the obstructed public area directing that the obstruction be removed within twenty-four (24) hours.
- (f) **Failure to Remove Obstruction.**
- (1) If the owner or occupant fails to remove the obstruction within the time period established in Section (d) or (e) respectively, any City enforcement official shall cause

the removal of the obstruction, keeping an account of the expense of the abatement, and such expenses shall be charged to and paid by such property owner. Notice of the bill for abatement of the obstruction shall be mailed to the owner of the premises and shall be payable within ten (10) calendar days from receipt thereof. Within sixty (60) days after such costs and expenses are incurred and remain unpaid, the City Clerk-Treasurer shall enter those charges onto the tax roll as a special tax as provided by the State Statutes.

- (2) The failure of the City Clerk-Treasurer to record such claim or to mail such notice or the failure of the owner to receive such notice shall not affect the right to place the City expense on the tax rolls for unpaid bills for abating the obstruction as provided for in this Section.

Sec 6-2-7 Street Privilege Permit.

- (a) **When Required.** Permits for the use of the streets, alleys, sidewalks or other public ways or places of the City of Owen may be granted to applicants by the Director of Public Works for the purpose of moving any building or structure or of encumbering the street, alley, sidewalk or way with materials necessary in and about the construction or demolition of any building or structure, provided such applicant has complied with the other requirements of this Section and has obtained a building permit if required by this Code of Ordinances. The Director of Public Works may request advisory recommendations from the Chief of Police, Fire Chief, and Building Inspector prior to issuance of the permit. City officials may attach conditions to the permit, including proof of liability insurance. Temporary placement of merchandise on sidewalks shall be governed by Section 6-2-6.
- (b) **Bond/Cash Deposit.** No street privilege permit shall be issued until the applicant shall execute and file with the Clerk-Treasurer a bond or cash deposit in an amount determined by the Director of Public Works not exceeding Ten Thousand Dollars (\$10,000.00), conditioned that the applicant will indemnify and save harmless the City of Owen from all liability for accidents or damage caused by reason of operations under said permit and will remove such encumbrance upon termination of the operations and will leave the vacated premises in a clean and sanitary condition and repair any and all damage to the streets, alleys, sidewalks or public property of the City resulting from such building or moving operations. Upon request to the Common Council, the Council may waive this requirement.
- (c) **Fee.** The fee for a street privilege permit shall be as prescribed in Section 1-3-1, plus any actual City costs.
- (d) **Conditions of Occupancy.** The permission to occupy or obstruct the streets, alleys, sidewalks or public grounds is intended only for use in connection with the actual erection, alteration, repair, removal or moving of buildings or structures and shall be given upon the following terms and conditions and subject to revocation without notice by the Common

Council, Mayor, Fire Chief, Director of Public Works, Building Inspector, Clerk-Treasurer or law enforcement officer for violation thereof:

- (1) Such temporary obstruction shall cover not more than one-third (1/3) of any street or alley.
 - (2) Obstructions shall be sufficiently lighted at night so as to be in full view of the public from all directions.
 - (3) Sidewalk traffic shall not be interrupted, but temporary sidewalks of not less than four (4) feet in width guarded by a closed fence at least four (4) feet high on both sides may be maintained during the period of occupancy.
 - (4) The process of moving any building or structure shall be as continuous as practicable until completed and, if ordered by the Common Council, shall continue during all hours of the day and night.
 - (5) No building or structure shall be allowed to remain overnight on any street crossing or intersection or so near thereto as to prevent easy access to any fire hydrant.
 - (6) Buildings shall be moved only in accordance with the route prescribed by the Common Council, upon the recommendation of the Director of Public Works.
 - (7) Upon termination of the work necessitating such obstruction, all parts of the streets, alleys, sidewalks or public grounds occupied under the permit shall be vacated, cleaned of all rubbish and obstructions and placed in a safe condition for public travel at the expense of the permittee.
- (e) **Termination.** All street privilege permits shall automatically terminate at the end of three (3) months from the date of issuance unless an earlier termination date is specified thereon at the discretion of the Common Council or Director of Public Works.
- (f) **Removal by City.** In addition to any other penalty imposed, if the owner or occupant of the premises adjoining any lawfully obstructed sidewalk shall remove or neglect to remove such obstruction within twenty-four (24) hours after such notice from the Common Council to do so, it shall be the duty of the City to remove such obstruction and make return of the costs and expenses thereof to the City Clerk-Treasurer who shall enter such cost on the next annual tax roll as a special charge against the property abutting such obstructed sidewalk, and such sum shall be levied and collected as other special taxes against real estate.

State Law Reference: Sec. 66.0425, Wis. Stats.

Sec. 6-2-8 Snow and Ice Removal.

- (a) **Removal From Sidewalks.** Within twenty-four (24) hours after the cessation of any fall of sleet or snow, it shall be the duty of the owners and/or the occupants of any lot or parcel of land in the City of Owen to remove, or cause to be removed, the snow or sleet from any and all sidewalks and the nearest cross-side-walks adjacent to the premises of such owner

or occupant, and to keep the same free and clear of snow and ice for the full width of the sidewalk.

- (b) **Failure to Remove.** In case of failure or neglect of any owner or occupant of any land or parcel of land to remove the snow from sidewalks as specified in Subsection (a) within the time set forth in said Subsection and, after twenty-four (24) hours after the cessation of any fall of snow, the owner or occupant has failed to remove such snow from sidewalks as specified in Subsection (a), the Director of Public Works shall remove or cause the snow to be removed from any and all sidewalks and cross-sidewalks that may be so neglected by the owner or occupant, and a fee established by the Common Council shall be assessed against the owner or occupant for the cost and expense of moving such snow. The fee will be charged against the respective lots and parcels of land adjacent to which said work shall be done, as a special charge, and such sum or sums shall be collected in the same manner as other special taxes.
- (c) **Snow and Ice Not to Encroach.**
 - (1) **Streets and Sidewalks.** No person shall push, shove or in any way deposit any snow or ice onto any public streets, alley, sidewalk or public lands dedicated to public use except for parcels or lots located where existing buildings are constructed within five (5) feet of the street right-of-way and the sidewalks exist from the City right-of-way to the curb line. In such instances, the owners, occupants and/or employees of parcels or lots shall be permitted to deposit snow and ice from their sidewalks onto the public streets. Failure to remove snow and ice within twenty-four (24) hours shall also constitute a public nuisance and subject responsible persons to the penalties applicable for violation of City public nuisance ordinances.
 - (2) **Handicapped Parking Spaces.** No person, firm, corporation or partnership or the owner, tenant, lessee or occupant of any premises having parking spaces reserved for handicapped drivers or any contractor employed for the removal of snow and ice shall block access to parking spaces reserved for handicapped drivers by the plowing, piling or placement of snow and ice in such reserved spaces.
 - (3) **Fire Hydrants.** It shall be unlawful to cover a fire hydrant with snow or ice.
 - (4) **Improper Disposal on Private Property Without Authorization.** No person, firm, corporation, property owner or occupant shall remove snow or ice from any parcel of real estate and place it upon another parcel of real estate without the express permission of the owner of the parcel of real estate upon which the snow or ice is to be placed.
- (d) **Continued Violations.** Each twenty-four (24) hour period where a violation occurs shall constitute a separate offense under this Section for enforcement purposes. Repeated violations or subsequent additional accumulations of snow and/or ice shall not nullify any pending notice issued under this Section. Failure to remove snow and ice within twenty-four (24) hours shall also constitute a public nuisance and subject responsible persons to the penalties applicable for violation of City public nuisance ordinances per Sec. 1-1-7.

- (e) **Abatement After Notice.** Failure of the owner, occupant or person in charge of any parcel or lot to cause the removal of snow and/or ice within the time established under Subsection (a) shall result in a citation being issued to violators and/or the City causing the removal of said snow and/or ice and billing the cost thereof pursuant to Subsection (g) below.
- (f) **Expense.** An account of the expenses incurred by the City to abate the snow and/or ice hazard shall be kept and such expenses shall be charged to and paid by the parcel or lot owner; such charge shall be based on a minimum City charge in addition to removal and administrative expenses. Said expenses shall be not less than as prescribed in Section 1-3-1. Notice of the bill for the removal of snow and/or ice shall be mailed to the last-known address of the owner of the parcel or lot and shall be payable within ten (10) calendar days from the receipt thereof. Within thirty (30) days after such costs and expenses are incurred and remain unpaid, the Clerk-Treasurer shall enter those charges onto the tax roll as a special tax as provided by Sec. 66.0627, Wis. Stats.
- (g) **Penalty.** In addition to the provisions set forth in this Section, any person, firm or corporation which violates the provisions of this Section shall be subject to a penalty as provided in Section 1-1-7 of this Code of Ordinances.

State Law Reference: Sec. 66.0627, Wis. Stats.

Sec. 6-2-9 Terrace Areas.

- (a) **Definition.** The definition of "terrace" shall be as defined in Section 6-4-3(d).
- (b) **Noxious Weeds; Paving.** All that part of the terrace not covered by a sidewalk shall be kept free and clear of all noxious weeds and shall not be paved, surfaced or covered with any material which shall prevent the growth of plants and shall be maintained as a lawn, except in areas specifically approved by the Common Council or its designee. Basketball backstops, statuary, structures, flag poles, sprinkler systems, decorative berms, "invisible" dog fencing, and other objects shall not be placed in the terrace area.
- (c) **Responsibility to Maintain.** Every owner of land in the City of Owen whose land abuts a terrace is required to maintain, or have maintained by his/her tenant, the terrace directly abutting such land as provided in this Section and elsewhere in this Code of Ordinances. Every owner shall keep mailboxes located on a terrace free and clear of snow.

Cross-Reference: Title 6, Chapter 4.

Sec. 6-2-10 Vaults.

All vaults and cisterns under sidewalks shall be prohibited.

Sec. 6-2-11 Requests for Improvements.

Requests or petitions by City property owners for replacement, street resurfacing, curb and gutter, storm sewers, utility work and sidewalks shall be presented to the Common Council on or before September 15th to be considered for installation in the following year.

Sec. 6-2-12 Unlawful Dumping on Streets.

It shall be unlawful for any person to deposit or cause to be deposited, dump, sort, scatter or leave any rubbish, stone, wire, earth, ashes, cinders, sawdust, hay, glass, manure, filth, paper, snow, ice, dirt, grass, leaves, construction waste, garbage or other offensive or noxious material in any public street, sidewalk, alley, or upon any public property or upon any property of another, without the express permission of the owner or occupant thereof. Such unlawful material or obstruction may be removed by the City and the cost thereof billed to the violator pursuant to Sec. 66.0627, Wis. Stats.

Sec. 6-2-13 Street Numbers.

- (a) **Established.** There is established a uniform system of numbering houses and buildings fronting on all streets, avenues and highways in the City of Owen; and all houses and buildings shall be numbered in accordance therewith. Failure to be in compliance with this Section shall be a violation of this Code of Ordinances.
- (b) **Houses to Bear Numbers.**
 - (1) There shall be assigned to each house and building located on any street, avenue, alley or highway in the City its respective number under the uniform system provided for in this Section. When a building has been assigned its respective number or numbers, the owner, occupant or agent shall place or cause to be placed upon each house or building controlled by him/her the number or numbers assigned within sixty (60) days after the assigning of the proper number.
 - (2) The cost of the number or numbers shall be borne by the property owners. The numbers shall be procured by the property owners. Replacement and new street numbers shall be procured and paid for by the owner. The numbers shall be not less than three (3) inches in height on a background of not less than three and one-half (3-1/2) inches, and shall be in a contrasting color for maximum visibility. Script numbering shall not be used for primary numbering purposes.
 - (3) The numbers shall be conspicuously placed immediately above, on or at the side of the proper door of each building so that they can be plainly seen from the street. Whenever any building is more than fifty (50) feet from the street line, the number

of the building shall be conspicuously displayed at the street line, near the walk, driveway or common entrance to such building and upon a gate post, fence, tree, post or other appropriate place so as to be easily discernable from the sidewalk.

(c) **Records.**

- (1) To facilitate correct numbering, a plat book or map of all the streets, avenues and public highways within the City showing the numbers of all lots or houses fronting thereon shall be kept on file at the City Hall. These plats shall be open to public inspection during the office hours of the Zoning Administrator.
- (2) The numbering of each street shall begin at the base line. The number in the first block shall be from 100-199, the second block shall be 200-299 and so on.
- (3) All lots and houses on the south and west sides of all streets shall be numbered with odd numbers, and all lots and houses on the north and east sides of all streets shall be numbered with even numbers, each commencing with the hundred assigned to that block and shall increase from the base line one (1) number for each twenty-five (25) feet of frontage or fraction thereof. Where any building has more than one (1) door serving separate occupants, a separate number shall be assigned to each door serving a separate occupant, providing the building is twenty-five (25) feet or more in width. If the building is not twenty-five (25) feet or more in width and entrances are not that far apart, the next consecutive number shall be marked fractionally. Buildings fronting on two (2) or more streets shall have a number assigned only to the entrance, unless other entrances serve different occupants.
- (4) All streets not extending through to the base line shall be assigned the same relative numbers as if the street had extended to the base line.
- (5) Where only one (1) number can be assigned to any house or building, the owner, occupant or agent of such house or building, who may desire distinctive numbers for the upper and lower portion of any such house or building, or for any part of such house or building fronting on any street, may use the suffix "A", "B", or "C", etc. as may be required.

(d) **City to Assign Numbers.** The City shall inform any party applying therefor of the number or numbers belonging to or embraced within the limits of any lot or property as provided in this Section. In case of doubt as to the proper number to be assigned to any premises, the City shall determine the number of such premises.

(e) **Number Assignment as Condition For Building Permit.** Whenever any house, building or structure is erected or located in the City after the entire work of establishing a uniform system of house numbering has been completed, in order to preserve the continuity and uniformity of numbers of the houses, buildings and structures, the owner shall procure the correct number or numbers from the City for the property and shall immediately fasten such number or numbers so assigned upon such building as provided in this Section. No building permit shall be issued for any house, building or structure until the owner has procured from the City the official street address of the premises.

Sec. 6-2-14 Obstruction of Public Ditches.

No person shall in any manner obstruct or cause to be obstructed the free passage of water in any public gutter, ditch, culvert, swale or drain or place or cause to be placed any rubbish, dirt, sand, gravel or any other matter or thing so that the same is likely to be carried by the elements into any public gutter, ditch, culvert, swale or drain. Such unlawful material or obstruction may be removed by the City of Owen and the cost thereof billed to the violator pursuant to Sec. 66.0627, Wis. Stats.

Sec. 6-2-15 Use and/or Lease of City Equipment and Services.

- (a) **Equipment.** The City of Owen shall not permit any private party to use and/or lease/rent any City equipment for private purposes. However, where it is deemed to be in the public interest, such City equipment may be rented/leased to private parties performing municipal-related work provided such equipment is operated at all times by trained City personnel and lease/rental rates fully reflect all City costs, including, but not limited to, wages, maintenance, insurance, non-wage compensation/benefits, etc.
- (b) **Services.** The City of Owen shall not provide specialized services such as heavy equipment services, snowplowing, etc., for private parties, whether for a fee or no fee. However, due to the unavailability of private sector service providers and in order to protect public safety, the City of Owen may provide sanding/salting services to private businesses on a fee basis.

Sec. 6-2-16 City Public Construction Projects; No-Bid Construction.

- (a) **No-Bid Construction for Projects Performed by the City.** Pursuant to Section 62.15(1), Wis. Stats., the Common Council, by three-fourths (3/4) vote of all members-elect, elects that any class of public construction, or any part thereof, may be performed directly by the City of Owen without submitting the same for bids. The following classes of public work, or any part thereof, may be done directly by the City of Owen or its subunits without submitting the same for bids:
 - (1) Construction and/or repair or maintenance of streets.
 - (2) Laying, construction and/or repair or maintenance of sewer mains and laterals, and other system-related infrastructure.
 - (3) Laying, construction and/or repair or maintenance of water mains and laterals, and other system-related infrastructure.
 - (4) Installation, construction and/or repair or maintenance of City or municipal electric utility electric service facilities and infrastructure, including, but not limited to, street lighting.

- (5) All public construction of which the estimated cost is less than Twenty-Five Thousand Dollars (\$25,000.00).
- (b) **Contracts, How Let.** All public construction, other than those classes exempted under Subsection (a) above, the estimated cost of which exceeds Twenty-Five Thousand Dollars (\$25,000.00), shall be let by contract to the lowest responsible bidder; all other public construction shall be let as the Common Council shall direct. If the estimated cost of any public construction exceeds Five Thousand Dollars (\$5,000.00) but is not greater than Twenty-Five Thousand Dollars, the City shall give a Class I Notice, under Ch. 985, Wis. Stats., of the proposed construction before the contract for the construction is executed.

Cross-Reference: Section 3-1-16

Sec. 6-2-17 Dirt and Debris on Streets.

- (a) **Unlawful Deposit.** In the interests of public safety, health and general welfare, community appearance, and efficiency of operation, it shall be unlawful to place, throw, leave, in any way deposit or permit to be deposited, or permit to remain any dirt, leaves, rubbish, litter, debris or material of any kind upon any street, sidewalk, alley, drainageway, or public ground in the City of Owen.
- (b) **Owner's Responsibility for Removal.** The owner, occupant, or person in charge of private premises, which places, causes or permits to remain, any of said materials upon any street, sidewalk, alley, drainageway or public ground in the City of Owen shall immediately remove said materials at no cost to the City.
- (c) **Refuse from Motor Vehicles.**
- (1) The operator of any motor vehicle which tracks, drops, or places any materials upon any street, sidewalk, alley, drainageway or public ground in the City of Owen shall immediately stop and remove said materials at no cost to the City.
 - (2) In the event said operator is performing work under the control or authority of the owner, occupant, or person in charge of the work on private premises, and said operator causes the deposition of any materials upon any street, sidewalk, alley, drainageway, or public ground in the City of Owen, and which said operator fails to remove said materials as required in Section (c) above, the owner, occupant, or person in charge of said work on said private premises, shall remove said materials at no cost to the City.
- (d) **Removal by City.** In the event the materials are not removed from the street in accordance with Subsections (b), (c), and/or (c)(1) above, the City shall cause the removal of such materials and shall charge said operator, or said owner, occupant, or person in charge of said work the cost of the removal. In the event the person charged for said removal fails to pay such costs within thirty (30) days, it shall be entered on the tax roll as a special tax against said property.

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- (e) **Penalties.** In addition to the costs of removal, said operator, or said owner, occupant, or person in charge of said property shall be subject to a penalty per occurrence as prescribed in Section 1-1-7. Each day that said materials are not removed, shall constitute a separate offense under this Section.

Sec. 6-2-18 Damages to Streets and Public Property.

- (a) **Unlawful Damage.** In the interests of public safety, health, general welfare, community appearance, and efficiency of operation, it shall be unlawful in any way to cause damage, injury, or destruction, to any portion or any fixture of any street, sidewalk, alley, drainageway, or public ground in the City of Owen.
- (b) **Responsibility to Repair.** The person which causes damage, injury, or destruction of any portion of any street, sidewalk, alley, drainageway, or public ground in the City of Owen shall immediately stop and notify the Police Department or Public Works Director that he/she has caused such damages and shall correct said damages within ten (10) days at no cost to the City.
- (c) **Failure to Report/Correct.**
 - (1) In the event the operator of any motor vehicle or equipment which causes damage, injury, or destruction of any portion of any street, sidewalk, alley, drainageway, or public ground in the City of Owen, fails to report such damage, it shall be considered a violation of this Section.
 - (2) In the event said operator is performing work under the control or authority of the owner, occupant, or person in charge of the work on private premises, and said operator causes the damage of any portion or fixture of any street, sidewalk, alley, drainageway, or public ground in the City of Owen, and which said operator fails to correct said damages as required in Section (b) above, the owner, occupant, or person in charge of said work on said private premises, shall correct said damages at no cost to the City.
- (d) **Repairs by City.** In the event the damages are not corrected within ten (10) days, the City shall cause the correction of said damages and shall charge the operator, or owner, occupant, or person in charge of said property the cost of correcting the damage. In the event the said costs remain unpaid following thirty (30) days, it shall be entered on the tax roll as a special tax against said property.
- (e) **Penalties.** In addition to the costs to correct damages, said operator, or said owner, occupant, or person in charge of said property shall be subject to a penalty per occurrence as prescribed in Section 1-1-7. Each day after said ten (10) days that the damages are not corrected, shall constitute a separate offense under this Section.

State Law References: Sec. 66.0425, Wis. Stats.

Sec. 6-2-19 Adoption of State Statutes Concerning Roads.

The statutory provisions in the following enumerated sections of the Wisconsin Statutes, exclusive of any provisions therein relating to the penalties to be imposed or the punishment for violation of said statutes, are hereby adopted and, by reference, made a part of this Section. Any act required to be performed or prohibited by any regulation incorporated herein by reference is required or prohibited by this Section. Any future amendments, revisions or modifications of the statutory regulations incorporated herein are intended to be made part of this Section.

- (a) Sec. 82.19 Highways, Discontinuance of
- (b) Sec. 86.01 Materials Left in Highway
- (c) Sec. 86.021 Highways, Cultivation of; Injury by Farm Machinery
- (d) Sec. 86.022 Obstructing Highway with Embankment or Ditch
- (e) Sec. 86.025 Camping on Highways
- (f) Sec. 86.03 Trees, On and Adjacent to Highways
- (g) Sec. 86.04 Highway Encroachments
- (h) Sec. 86.05 Highways, Duty to Restore Entrances
- (i) Sec. 86.06 Highways, Closing to Travel
- (j) Sec. 86.07 Highways, Digging in Highways; Using Bridges for Advertising
- (k) Sec. 86.105 Driveways, Snow Removal
- (l) Sec. 86.19 Highway Signs, Regulation, Prohibition
- (m) Sec. 146.13 Highways and Surface Waters, Discharging Noxious Matter Into

Sec. 6-2-20 Grass Clippings.

Except as provided herein, all grass clippings from lawnmowing or other sources shall not be allowed to accumulate upon any public street or be dumped on a public right-of-way in such a manner in the City of Owen where such grass clippings could wash into any storm sewer drainage inlet in significant quantities. Grass clippings may be brought to the yard waste site at the City Garage. At no time may grass clippings and other yard waste be placed in ditches or drainageways.

Sec. 6-2-21 Cost of Sewer and Water Public Works Projects.

- (a) **Areas of City Responsibility.** In areas with existing streets, the City of Owen shall be responsible for repair of water mains and sewer mains and for street repairs as a result of failure of water and sewer mains.
- (b) **Areas of Property Owner Responsibility.** In areas with existing streets, the party requesting sewer and water services will be charged a fee per Section 1-3-1 for installation of laterals to the property line and subsequent street repairs.

Title 6 ► Chapter 3

Driveways

- 6-3-1** Driveway Permit Required
- 6-3-2** Driveway and Culvert Location, Design and Construction Requirements

Sec. 6-3-1 Driveway Permit Required.

- (a) **Purpose.** For the safety of the general public, the City of Owen shall determine the location, size, construction and number of access points to public roadways within the City limits. It is the City's intent to provide safe access to properties abutting public roadways suitable for the property to be developed to its highest and best use, provided that access is not deficient or dangerous to the general public.
- (b) **Permit Required to Construct, Reconstruct, Alter or Enlarge.** No person, firm or corporation shall construct, reconstruct, alter or enlarge any private driveway within the limits of the dedicated portion of any public street under the control and jurisdiction of the City of Owen without first obtaining a driveway permit therefor as provided by this Chapter from the Director of Public Works. A driveway permit is not required when a new driveway is to be constructed in conjunction with the construction of a new principal structure; the driveway is included in the building permit process in such cases. For bond and insurance requirements, see provisions of Section 6-2-3(g) and (h).
- (c) **Application.**
 - (1) Application for such permit shall be made to the City Clerk-Treasurer for referral to the Director of Public Works on a form provided by the City and shall be accompanied by a drawing accurately depicting the portion of the proposed private driveway to be constructed, reconstructed, altered or enlarged lying within the dedicated portion of the public street, the dimensions thereof and a statement of the materials proposed to be used. The applicant shall pay a fee as prescribed in Section 1-3-1. Upon receipt of the application and the fee if required, unless the proposed private driveway is a part of construction for a building or other structure for which a building permit has been applied for, in which case no additional fee is required, the Director of Public Works shall approve such application if the proposed driveway complies with the terms and conditions of this and any other applicable City ordinance.

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- (2) All applications for permits shall be made on a form prescribed by the Director of Public Works and be accompanied by a sketch in duplicate showing exact location of any naming:
 - a. Driveway and approaches.
 - b. Property lines.
 - c. Right-of-way lines.
 - d. Intersecting roads, streets or roadways within three hundred (300) feet.
 - e. Width of right-of-way.
 - f. Width and type of road surface.
 - g. Distance from right-of-way line to gasoline pumps and other structures on the site.
 - h. Type of surface and width of driveways and approaches.
 - i. Proposed turning radii.
 - j. Other pertinent information as may be required.
- (d) **Application Provisions.** All driveway permit applications shall contain the applicant's statement that:
 - (1) The applicant represents all parties in interest, and that such proposed driveway is for the bona fide purpose of securing access to his/her property and not for the purpose of parking or servicing vehicles, advertising, storage or merchandising of goods within the dedicated portion of the City street, or for any other purpose.
 - (2) The City of Owen, notwithstanding the construction of such driveway, reserves the right to make any changes, additions, repairs or relocations within the dedicated portion of the City street at any time, including relocation, reconstruction, widening and maintaining the street without compensating the owner of such private driveway for the damage or destruction of such private roadway.
 - (3) The permittee, his/her successors or assigns, agrees to indemnify and hold harmless the City of Owen, 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 City 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 City street.

Sec. 6-3-2 Driveway and Culvert Location, Design and Construction Requirements.

- (a) **General Requirements.** The location, design and construction of driveways shall be in accordance with the following:
 - (1) **General Design.** Private driveways shall be of such width and so located that all of such driveways and their appurtenances are within the limits of the frontage abutting

the street of the property served. Driveways shall not provide direct ingress or egress to or from any street intersection area and shall not encroach upon or occupy areas of the street right-of-way required for effective traffic control or for street signs or signals. A driveway shall be so located and constructed that vehicles approaching or using it shall have adequate sight distance along the street. Driveway approaches shall be at least ten (10) feet apart except by special permission from the Director of Public Works, and driveways shall in all cases be placed wherever possible as not to interfere with utilities in place.

- (2) **Number.** The number of driveways to serve an individual property fronting on a street shall be one (1), except where deemed necessary and feasible by the Common Council for reasonable and adequate service to the property, considering the safety, convenience and utility of the street.
- (3) **Island Area.** The island area in the street right-of-way between successive driveways or adjoining a driveway and between the highway shoulder and right-of-way shall constitute a restricted area and may be filled in and graded only as provided in Subsection (a)(6).
- (4) **Drainage.** The surface of the driveway connecting with 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 a curb or gutter the new connections shall be of equivalent acceptable material and curb returns shall be provided or restored in a neat, workmanlike manner. The driveway surface shall be connected with the highway pavement and the sidewalk, if any, in a neat, workmanlike manner. The driveway construction shall include the replacement of such sidewalk areas which are inadequate or which are or may be damaged by means of vehicle travel across the sidewalk. All driveway entrances and approaches which are constructed across sidewalks shall be paved in accordance with the requirements for sidewalk construction in Section 6-2-2 of this Code insofar as such requirements are applicable, including thickness requirements. Standard thickness of residential driveway approaches will be six (6) inches thick.
- (6) **Restricted Areas.** The restricted area between successive driveways may be filled in and graded only when the following requirements are complied with:
 - a. The filling or draining shall be to grades approved by the Director of Public Works and, except where highway drainage is by means of curb and gutter, water

- drainage of the area shall be directed away from the street roadbed in a suitable manner.
- b. Culvert extensions under the restricted area shall be of the same size and of equivalent acceptable material as the culvert under the driveway. Intermediate manholes adequate for cleanout purposes may be required where the total culvert length is excessive.
 - c. Where no street side ditch separates the restricted area from the street roadbed, permanent provision may be required to separate the area from the street roadbed to prevent its use for driveway or parking purposes by construction of a border, curb, rail or posts as may be required by the Director of Public Works.
- (7) **Relocation of Utilities.** Any costs of relocating utilities shall be the responsibility of the property owner with approval of the Director of Public Works necessary before any utility may be relocated and the driveway installed.
- (8) **Construction Across Sidewalks.** All driveway entrances and approaches which are constructed across sidewalks shall be paved in accordance with the requirements for sidewalk construction in Section 6-2-2 of this Code insofar as such requirements are applicable, including thickness requirements.
- (9) **Special Requirements for Driveways Over 150 Feet in Length; Special Situations.**
- a. In addition to those driveway requirements prescribed herein, private driveways one hundred and fifty (150) feet and over in length, measured from the edge of the traveled surface of the intersecting highway to the structure, shall meet the following standards to permit access to principal buildings by the Fire Department and/or other public safety authorities:
 1. A minimum of a twenty-four (24) foot right-of-way;
 2. A minimum clear-cut width of twenty (20) feet;
 3. A minimum driving surface of sixteen (16) feet;
 4. A minimum height clearance of fifteen (15) feet; and
 5. A minimum width of twenty (20) feet for all aprons and approaches.
 - b. Driveways of one hundred fifty (150) feet and over accessing parcels on which there are no structural improvements are exempt from the requirements of this Subsection. However, if a structure is subsequently built, all standards and requirements for driveways and culverts prescribed by this Section shall then be fully complied with.
 - c. The Director of Public Works, based on recommendations of the Fire Department, may require additional clear-cut width clearances and extra driving surface widths to alleviate concerns caused by sharp curves, steep inclines or other situations which could interfere with emergency vehicles properly and safely utilizing the driveway.
- (10) **Variations.** Any of the above requirements may be varied by the Common Council in such instances where the peculiar nature of the property or the design of the street may make the rigid adherence to the above requirements impossible or impractical.

- (b) **Special Requirements for Commercial and Industrial Driveways.** The following regulations are applicable to driveways serving commercial or industrial establishments:
- (1) **Width of Drive.** The maximum permitted width of a commercial 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 commercial or industrial activity or the physical characteristics of the land would require a driveway of greater width than herein specified, the Common Council in its discretion may permit a driveway of additional width.
 - (2) **Angular Placement of Driveway.** The angle between the center line of the driveway and the curb line shall not be less than 45°.
 - (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 City 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 City street. All flares shall be tangent to the curb line. A curb length of not less than three (3) feet shall be left undisturbed adjacent to each property line to serve as an island area in the event an adjoining property owner applies for a driveway permit to serve his/her property.
- (c) **Special Requirements for Residential Driveways.** The following regulations are applicable to driveways serving residential property:
- (1) **Width.** Unless special permission is first received from the Common Council, a residential single-type driveway shall be no greater than twenty-four (24) feet wide at the outer or street edge of the sidewalk; residential double-type driveways shall be no greater than twenty-four (24) feet wide at the curb line and eighteen (18) feet wide at the outer or street edge of the sidewalk.
 - (2) **Angular Placement.** The center line of the drive may be parallel to the property line of the lot where access is required or at right angles to the curb line.
- (d) **Appeal from Permit Refusal.** Any person feeling himself/herself aggrieved by the refusal of the Director of Public Works to issue a permit for a private driveway may appeal such refusal to the Common Council within fourteen (14) days after such refusal to issue such permit is made.
- (e) **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 City of Owen 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 City 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. Whenever possible, the driveway area located within the right-of-way area shall consist of at least four (4) feet of flat surface area from the pavement edge.
 - (4) No driveway apron shall extend out into the street further than the facing of the curb and under no circumstances shall such driveway apron extend into any gutter area. All driveway entrances and approaches shall be constructed as not to interfere with the drainage of streets, side ditches or roadside areas, or with any existing structure on the right-of-way.
 - (5) No portion of any curb, parapet or retaining wall, rising above the grade of the driveway, erected by the owner of the premises involved shall extend beyond the culvert spanning the water course located in such public way.
- (f) **Culvert Construction and Standards.**
- (1) **Culvert Requirement.** The Common Council may require the property owner to provide for adequate surface water drainage along the street, and the property owner shall provide any necessary culvert pipe at his/her expense.
 - (2) **Culvert Permit.**
 - a. No person shall lay, remove, replace or repair any culvert within the City of Owen unless he/she is under contract with the City to do such work or has obtained a permit therefor from the Director of Public Works at least three (3) days before work is undertaken. The Director of Public Works shall determine the diameter of the culvert to be installed which shall not be less than twelve (12) inches and shall approve of the laying of said culvert so as to provide proper drainage.
 - b. No person (not under contract to the City of Owen) shall lay, remove, replace or repair any culvert until a permit has been obtained from the Director of Public Works at least three (3) days before work is undertaken. There shall be no fee for such permit. The Director of Public Works shall view the site for installation of the culvert and determine the position and diameter of the culvert necessary to provide adequate drainage.
 - (3) **Existing Driveway Situations.** The owner of a driveway existing at the time this Section originally became effective may be required to install a culvert if such existing driveway shall impede the flow of surface waters. The Director of Public Works shall advise the Common Council of any driveway which intersects with a public street that impedes the flow of surface water, and the Common Council shall order the owner thereof to install a proper culvert as directed by the Director of Public

Works. The cost of such installation shall be borne by the owner. If the owner refuses or neglects to install a culvert, the City shall, after notice to the owner, proceed to make such installation and charge the cost therefor to the owner. If such costs are not paid by November 1st, the City Clerk-Treasurer shall place the charges on the tax roll in the same manner as a special assessment to be collected with real estate taxes.

- (4) **Size.** Culverts shall be installed prior to construction work being commenced on the property served. No pipe smaller than twelve (12) inches in diameter (or equivalent elliptical or arch pipe) will be allowed. All culverts shall be constructed of galvanized steel or reinforced concrete, and shall be made of new manufacture, unless specifically excepted by the Director of Public Works or City Engineer in the case of quality used culverts. PVC plastic culverts may only be used if a ditch is twelve (12) inches or less in depth or the Director of Public Works determines there is adequate cover.
- (5) **Gauge.** The minimum wall thickness for the galvanized steel pipe culverts shall be in accordance with the following:

Pipe Diameter	Gauge
15 to 24 inch	16
30 to 36 inch	14
42 to 54 inch	12
60 to 72 inch	10
78 to 84 inch	8

The class of reinforced concrete pipe shall be in accordance with the following:

Height of Cover (in feet)	Class of Pipe
0-2	IV
2-3	III
3-6	II

- (6) **Drainage.** The culverts shall be placed in the ditchline at elevations that will assure proper drainage.
- (7) **Endwalls.** Culverts shall be provided with earthen, concrete or metal apron endwalls as directed by the City Engineer or Director of Public Works.
- (8) **Backfill Material.** Material used for backfill shall be of quantity acceptable to the City Engineer or Director of Public Works and shall be free from frozen lumps, wood, or other extraneous or perishable materials. The minimum cover, measured from the top of the pipe to the top of the subgrade, shall be six (6) inches.

- (9) **Erosion Control.** Erosion control measures shall be implemented as necessary to control erosion, or as directed by the City Engineer or Director of Public Works.
- (10) **Distance.** The distance between culverts under successive driveways shall not be less than ten (10) feet except as such restricted area is permitted to be filled pursuant to Subsection (a)(6).
- (11) **Cost.** The property owner shall install the culvert and be responsible for the cost thereof. The property owner shall keep his/her culverts unobstructed and clean.
- (12) **Appeal.** Persons may request a variance from the culvert requirements of this Section by filing a written appeals request with the Director of Public Works or City Clerk-Treasurer, who shall place the matter as an agenda item for the Common Council's next meeting. The Common Council may only waive the requirement for a culvert upon a finding that unique physical characteristics of the location in question render a culvert unnecessary. The City Engineer or Director of Public Works may be asked to render an opinion on the request.

Title 6 ► Chapter 4

Trees and Shrubs

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Sec. 6-4-1 Purpose.

- (a) **Purpose.** The purpose of this Chapter is to:
- (1) Promote and enhance the beauty and general welfare of the City of Owen;
 - (2) Protect trees and shrubs within the City of Owen against the spread of disease or pests; and
 - (3) Prevent damage to public sewers and water mains.
- (b) **General Policy.** It is the policy of the City of Owen to regulate and control the planting, transplanting, removal, maintenance, and protection of trees and shrubs in the City in order to eliminate and safeguard against dangerous conditions which may result in injury to persons upon public property.
- (c) **Applicability.** The provisions of this Chapter shall apply to all trees, shrubs and/or plants located, growing or intended to be planted within public street rights-of-way, parks and other public places of the City of Owen, and to trees, plants and shrubs located on private property that constitute a public nuisance as described herein.

Sec. 6-4-2 Definitions.

The following definitions shall be applicable in this Chapter:

- (a) **Public Trees and Shrubs.** All trees and/or shrubs located or to be planted on any park, playground, or other property owned or controlled by the City of Owen or in the right-of-way of any public street, alley, sidewalk or highway.

- (b) **Private Trees and Shrubs.** All trees or shrubs located or to be planted on privately owned property maintained by the property owner, lands not included in the definition of "public trees and shrubs."
- (c) **Public Nuisance Tree.** Includes:
 - (1) Any tree or shrub, public or private, with a destructive or communicable disease or other pestilence which endangers the growth or health of trees and threatens to spread disease or insect infestations.
 - (2) Dead or dying trees;
 - (3) A tree or tree limb(s) that obstruct street lights, traffic signs, or the free passage of pedestrians or vehicles; or
 - (4) A tree or shrub that poses a threat to safety.
- (d) **Boulevard or Terrace Areas.** "Boulevard or Terrace Areas" means the land between the normal location of the street curbing and sidewalk. Where there is no sidewalk, the area four (4) feet from the curb line shall be deemed to be a boulevard for the purpose of this Chapter. "Boulevard" shall have the same meaning as "terrace". Where there are only sidewalks, the area four (4) feet from the curb shall be deemed boulevard areas under this Chapter.
- (e) **Topping.** The severe cutting back of limbs so as to remove the normal canopy and disfigure the trees.

Sec. 6-4-3 Permits and Insurance for Tree-Related Businesses.

- (a) **Permit Required.** It shall be unlawful for any business to engage in the business of planting, cutting, trimming, pruning, removing, spraying or otherwise treating trees, shrubs, or vines within the City of Owen without first getting a permit from the Clerk-Treasurer or his/her designee. There is no fee for such permit. All permitted tree work shall be performed according to the provisions of this Chapter. All permitted work on public trees should further conform to current industry standards.
- (b) **Insurance.** Before any permit is issued for activities involving trees and shrubs and as a condition to obtaining said permit, the business shall provide satisfactory proof that it has workers' compensation and liability insurance. The person shall keep said insurance in full force and effect during the term of the permit. The City reserves the right to require proof of such insurance coverage from the permittee.
- (c) **Utility Company Pruning.** Public utility companies or their agents may perform such pruning as is necessary to maintain safe and reliable operation of their facilities. Public utility companies and/or their agents shall notify impacted property owners a minimum of two (2) business days (except in emergencies) prior to taking any action. Good pruning practices shall be followed.

Sec. 6-4-4 Landscaping.

In new subdivisions or when the development of commercial property occurs, the City Tree Advisory Board shall review landscaping plans for compliance with the tree regulations of this Chapter and may recommend trees to be planted in any of the streets, parking lots, parks, and other public places abutting lands henceforth developed and/or subdivided. The recommendations may be for either environmental or aesthetic reasons.

Sec. 6-4-5 Tree Planting, Maintenance and Removal.

- (a) **Authority of Director of Public Works.** The Director of Public Works shall have the authority to plant, trim, spray, preserve, and remove public trees and shrubs as may be necessary to ensure the safety of public streets or grounds, and to protect public sidewalks, streets, sewers and mains from damage.
- (b) **Tree Planting – Public and Private.**
 - (1) **Tree Species.** The City Tree Advisory Board shall develop and maintain a list of appropriate size trees for planting along streets in three (3) size classes: small, medium and large (See Appendix A).
 - (2) **Spacing.** The spacing of right-of-way trees will be in accordance with the three species size classes listed in this Chapter. No trees may be planted closer together than the following, except in special plantings designed by a landscape architect and recommended by the City Tree Advisory Board, with final approval of the Common Council:
 - a. Small trees: Thirty (30) feet.
 - b. Medium trees: Forty (40) feet.
 - c. Large trees: Fifty (50) feet.
 - (3) **Planting Near Utilities.** No trees other than those species listed herein as small trees may be planted under or within ten (10) lateral feet of any overhead utility wire, or over or within five (5) lateral feet of any underground water line, sewer line, transmission line, or other utility.
 - (4) **Distance from Curb and Sidewalk.** The distance trees may be planted from curbs and sidewalks will be in accordance with the three (3) species size classes listed in Subsection (b)(1) above, and no trees may be planted closer to any curb or sidewalk than the following (trees existing at the time of adoption of this Chapter shall be grandfathered):
 - a. Small trees: Two (2) feet.
 - b. Medium trees: Three (3) feet.
 - c. Large trees: Four (4) feet.
 - (5) **Exceptions.** Exceptions to distance and size requirements may be granted by the City Tree Advisory Board upon written request.

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(c) **Maintenance.**

(1) **Trimming of Trees in Street Right-of-Way.** Trees shall be pruned and trimmed by the owner of the property so that the lowest branches projecting over the public street or alley will provide a clearance of not less than fourteen (14) feet and a clearance of not less than seven (7) feet over any public sidewalk. Any tree not trimmed as herein provided shall be deemed a public nuisance. The Public Works Department will perform necessary trimming in such situations, without charge, upon the request of the property owner or when deemed necessary by the City.

(2) **Topping.** It shall be unlawful as a normal practice for any person, firm or City department to top any public tree, as defined in Section 6-4-2(d). Trees severely damaged by storms or other causes where other pruning practices are impractical may be exempted from this Chapter if so determined first by the City Tree Advisory Board.

(d) **Pruning Standards.** Pruning of all public trees including right-of-way trees shall conform to current industry standards.

(e) **Tree Ownership Disputes.** When ownership of a tree is disputed, the property owner must establish where the property line is before any work commences.

(f) **Removal Standards.** In cutting down trees located in public and terrace areas, 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 nine (9) inches below grade measured as a straight line, 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.

Sec. 6-4-6 Tree Protection.

(a) **Damaging Public Trees Prohibited.** The willful destruction or damaging of public trees, shrubs, plants, or flowers growing in a public park or along the edge of any public sidewalk, alley or street within the City of Owen is prohibited. No person shall, without the consent of the owner in the case of a private tree or shrub, or without authorization from the Director of Public Works in the case of a terrace-area tree, public tree or shrub, perform or cause to be performed by others any of the following acts:

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

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

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

- (4) Remove any guard, stake or other device or material intended for the protection of a public tree or shrub, or close or obstruct any open space about the base of a public tree or shrub designed to permit access of air, water and fertilizer.
 - (5) Attach any sign, poster, notice or other object on any tree, or fasten any guy wire, cable, rope, nails, screws or other device to any tree; except that the City may tie temporary "no parking" signs to trees when necessary in conjunction with street improvement work, tree maintenance work or parades.
 - (6) Cause or encourage any fire or burning near or around any tree.
 - (7) Except with a written permit from the Director of Public Works to place or maintain upon the ground any stone, brick, cement or other impervious substance in such manner as may obstruct the free access of air or water to the roots of any tree, shrub or plant in or upon any public way or public place.
- (b) **Protective Measures for Trees.** The following guidelines and standards shall apply to trees to be retained as part of a contractor's/developer's plan:
- (1) Utilities should not be within the dripline of trees.
 - (2) Protective barriers should be placed around trees during construction.
 - (3) Preserve existing trees whenever possible.
 - (4) Follow planting instructions per Section 6-4-5(b).
- (c) **Landmark Trees.** The City Tree Advisory Board shall have as one of its duties the location, selection, and identification of any trees which qualify as "Landmark Trees." Landmark Trees may be either public or privately owned trees. A tree may qualify as a Landmark Tree if it meets one (1) or more of the following criteria:
- (1) Species rarity.
 - (2) One hundred (100) years of age or older.
 - (3) Association with a significant historical event or person.
 - (4) Interesting or significant abnormality.

Sec. 6-4-7 Trees Located on Private Property.

- (a) **Authority to Enter Private Property.** The Director of Public Works or his/her designee shall have the authority to enter onto private property whereon there is located a tree, shrub, plant, or plant part that is suspected to be a public nuisance and to order its removal, if necessary.
- (b) **Notice to Abate.**
- (1) The Director of Public Works shall notify the owner or his/her agent in writing that the nuisance must be sprayed, removed or otherwise properly abated as directed in the notice within the time specified, which shall not be less than fourteen (14) days unless the Director of Public Works shall determine that immediate correction or removal is necessary.

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- (2) If the owner of such premises, or his agent, shall refuse or neglect to comply with the notice within the time specified, the Director of Public Works shall cause the nuisance to be sprayed, removed or otherwise abated and shall report the expense thereof to the City Clerk-Treasurer, who shall enter it as a special charge against the property upon which the tree or shrub is located.
- (c) **Interference With Director of Public Works Prohibited.** No person shall prevent, delay or interfere with the Director of Public Works or his/her designee while they are engaged in carrying out any work or activities authorized by this Chapter.

Sec. 6-4-8 Enforcement.

The Director of Public Works is hereby charged with the responsibility of enforcement of this Chapter and may service notice to any person in violation thereof or institute legal proceedings as may be required, with Council authorization, and the City Attorney is hereby authorized to then institute appropriate proceedings to that end, including injunctive relief, if applicable.

Sec. 6-4-9 Penalties; Claims; Appeals.

- (a) **Injunctive Relief.** Violation of any provision of this Chapter may be a basis for injunctive relief.
- (b) **Violations.**
 - (1) A person who neglects or refuses to comply with, or assists in the violation of, any provision of this Chapter or any order, permit or notice issued pursuant thereto, shall be subject to a forfeiture as prescribed in Section 1-1-7, and pay in addition the cost of replacement as provided herein. Each day any such violation continues shall constitute a separate offense.
 - (2) Any person who causes a public tree or shrub to be removed or damaged in violation of this Chapter, or any order, permit or notice issued pursuant thereto, shall repair or replace such public tree or shrub at the violator's cost in compliance with the standards of this Chapter. Such replacement shall be approved by the City Tree Advisory Board. Damages shall be determined in accordance with the latest edition of "A Guide to the Professional Evaluation of Landscape Trees, Specimen Shrubs, and Evergreens" published by the International Society of Arboriculture.
- (c) **Assessment of Claim.** In the event that a nuisance is not abated by the date specified in the notice, the Director of Public Works is authorized to cause the abatement of such nuisance. The reasonable cost of such abatement shall be filed as a special charge or lien against the property on which the nuisance was located. In addition, the property owner of the property upon which the nuisance was located shall be subject to prosecution.

Sec. 6-4-10 Appeals to the City Tree Advisory Board.

- (a) **Appeals.** Any resident/property owner of the City of Owen may appeal any provision of this Chapter to the City Tree Advisory Board. Any action of the Director of Public Works under this Chapter may be appealed to the City Tree Advisory Board.
- (b) **Filing Requirements.** To be a valid appeal, an appeal shall be filed within ten (10) business days after the decision of the Director of Public Works. The appeal shall be in writing and be filed with the City Clerk-Treasurer. The appeal shall specify the reasons for which an appeals hearing is requested. After such hearing, the City Tree Advisory Board shall render its decision, which shall be final unless appealed to the Common Council.
- (c) **Determination.** To appeal a determination of the City Tree Advisory Board to the Common Council, an appeal to the Common Council shall be in writing, state the reasons for the appeal, and be filed with the City Clerk-Treasurer within five (5) business days after notice of the decision of the City Tree Advisory Board is mailed to the applicant. The decision of the Common Council shall be final.

Sec. 6-4-11 Disclaimer of Liability.

Nothing in this Chapter shall be deemed to impose any liability upon the City of Owen, its officers, or employees, nor relieve the owner of any private property from the duty to keep any tree, shrub or plant on any street tree area of their property or under their control in such condition as to prevent it from constituting a hazard or impediment to travel or vision upon any street, park, boulevard, alley or public place within the City of Owen.