

## **STREETS AND SIDEWALKS**

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**7.01 REGULATIONS RELATING TO STREETS AND SIDEWALKS.**

(1) INJURING GRASS PLOTS OR STREETS.

No person shall cut, break, tear, deface or otherwise injure a grass plot, flower bed, ornamental or shade tree, shrub, lamp post, sign post, or street lamp other than his own, upon any sidewalk, street, alley or other public place within the limits of this Village.

(2) FASTENING ANIMALS TO SHADE TREES.

No person shall fasten any animal to any ornamental or shade tree, lamp post, sign post, or to any box or cage around such tree other than his own, upon any sidewalk, street, alley or other public place within the limits of this Village. (Ord 1764.)

(3) OBSTRUCTING SIDEWALKS.

No person shall pile, deposit, or place, or permit to be piled, deposited, or placed any rubbish, wood, coal, dirt, impediment or obstruction of any kind upon or over any sidewalk within this Village so as to interfere with the convenient use of the same by the public. In the event that any person shall violate the provisions of this section or shall allow any such rubbish, wood, coal, dirt, impediment or obstruction of any kind to accumulate or be deposited upon any street or sidewalk and remain there for more than twelve hours, the Village Manager shall forthwith remove the same at the expense of the owner of said premises, keep an accurate account of the cost of said work opposite each separately owned tract or parcel of land, certify the same to the Village Clerk-Treasurer prior to the first day of November next ensuing, and the said Clerk-Treasurer shall immediately extend the said amount so certified on the tax roll against the respective parcels of land.

(4) RIDING OR DRIVING UPON SIDEWALKS.

No person over the age of twelve years shall ride any bicycle and no person shall ride any motorcycle or drive or ride any horse or any vehicle, as defined in the traffic code, along or across any of the sidewalks or curbs of any of the streets or highways within this Village.

(5) ROLLER SKATING ON SIDEWALKS.

It shall be unlawful for any person or persons to use or operate upon any of the sidewalks in said village between the hours of 8:00 PM and 7:00 AM any roller skate or roller skates or any push-mobile or push-mobiles, except such only as are equipped with rubber tire upon each roller or wheel thereof.

(6) ENGAGING IN DANGEROUS SPORTS UPON STREETS.

No person shall engage in any sport or exercise whereby any passenger in or upon any streets, alley or public grounds within the limits of this village shall or may be impeded or endangered or injured.

(7) DAMAGING STREETS.

No person shall injure, tear up or deface any public improvement, nor dig any hole, ditch, drain or trench, nor make any alteration or construct any improvement of any kind in any public street or highway without a written permit from the Village Manager. Application for such permit shall be in such form and contain such information as shall be required by the Village Manager who shall issue such permit subject to such regulations and conditions as he may adopt.

(a) Requires a non-refundable street excavation permit - \$60.00

(8) REMOVING EARTH, ETC., FROM STREETS.

No person shall remove any earth, sand, stones, planks or gravel from any streets, highways or public grounds within said village without first having obtained an order or permit from the Village Manager.

(9) USE OF CERTAIN EQUIPMENT PROHIBITED.

(a) The dropping of heavy weights, frost breakers or construction equipment buckets to break pavements, driveway approaches or sidewalks, or to compact backfill material is prohibited.

(b) The use of mobile hammers to break pavements, driveway approaches, or sidewalks after November 1st or before April 15th is prohibited. The use of mobile hammers at any other time is permitted conditioned upon an endorsement from the contractor to the Village, holding the Village harmless from claims arising from use of mobile hammers.

**7.02 LITTERING STREETS, SIDEWALKS, ETC.**

(1) LITTERING PROHIBITED.

No person shall deposit, cast, throw, or permit to be blown or fall onto any street or highway, including the entire area of a street or highway between the lot lines whether or not paved or improved in any manner, or onto any pedestrian walk, public way or other public property, any ashes, dirt and paper, tin cans, bottles, glass, twigs, shrubs, construction waste, garbage, or other rubbish, litter, or offensive or nauseous material of any type.

(2) VEHICLE LITTERING PROHIBITED.

The operator of any truck, automobile or vehicle of any type shall cause every person in such truck, automobile or other vehicle to comply with the provisions of subsection (1) of this ordinance, and the violation of subsection (1) by any person in a truck, automobile or other vehicle shall also constitute a violation by the operator thereof. In the event a truck, automobile or other vehicle is parked, the person who was the operator thereof at the time it was parked shall for the purposes of this ordinance be considered the operator thereof while it is parked.

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(3) LITTER REMOVAL.

- (a) It shall be the duty of the owner and occupant of every dwelling, store, building or structure to remove from the lot line to the center of the street or highway, pedestrian walk or other public way on which such property abuts, including the entire lot or parcel of land whether or not the building or structure thereon covers the entire lot, all materials of the type referred to in subsection (l).
- (b) The Village Manager shall, from time to time, make personal inspection of all streets, highways, pedestrian walks and other public ways in the village to see that the provisions hereof are observed and obeyed, and in case of the failure of any owner or occupant to comply with the provisions hereof, the Village Manager shall cause the material to be removed, keeping an accurate record of the cost incurred by the village in effecting such removal, and shall then mail or deliver a bill for such work to the owner and to the occupant of the premises, which bill shall carry thereon a notation that unless the same is paid within thirty days from the end of the month in which said bill is mailed or delivered, the amount thereof will be certified and levied as a special tax against the premises in the next succeeding tax roll and collected as all other taxes are collected.

(4) WHEN INAPPLICABLE.

- (a) This section shall not apply in respect to ashes, sawdust or sand placed on any street, highway, pedestrian walk or other public way pursuant to Section 7.08 of this code to make the same safe for vehicular or pedestrian travel where necessary because of ice or snow on such street, highway, pedestrian walk or other public way.
- (b) This section shall not apply to the placing of materials referred to by this section for collection by the Department of Public Works in its regular collection of rubbish and in conformity with such rules and regulations in respect thereto as may be issued by the Village Manager from time to time.

(5) REMOVAL OF CONSTRUCTION MATERIAL.

It shall not be a violation of this section if materials of the type referred to in subsection (l) are strewn, spilled or carried onto any street, highway, pedestrian walk or public way during the course of performing any work or labor on property, provided that such materials are swept, shoveled or otherwise removed or taken from such street, highway or public way prior to 6:00 PM of each day; further, it shall not be a violation of this section to leave any dirt piled on a street, highway, pedestrian walk or other public way during the course of excavating for the installation of a sewer, water or gas main, or underground electric wires or cables, and the similar piling of gravel or material to be used in filling such excavation provided such excavation and materials so piled are adequately marked by barricades and lights to warn and protect the public, a proper permit for such excavation has been obtained, the excavation is promptly made and filled, and any such materials so piled are removed from the street, highway, pedestrian walk or other public way prior to 6:00 PM on the day following the completion of the filling of the excavation.

(6) RESPONSIBILITY FOR EMPLOYEES, ETC.

Any person performing any work or labor in the Village shall be responsible for any violations of this section by him or by any servant, agent or employee of his; a subcontractor, and the servants, agents and employees of a subcontractor, for the purposes of this section shall be considered agents or employees of the principal contractor.

**7.03 REGULATION OF OVERHEAD WIRES, POLES, CONDUITS AND RADIO AND TELEVISION ANTENNAS.**

(l) UTILITY WIRES AND APPURTENANCES.

(a) Regulation of Construction.

No light, power telegraph, telephone or other wires shall hereafter be placed, suspended or maintained on or laid underground in any street, alley or other public grounds in this Village, except in accordance with plans and specifications thereof approved in writing by the Village Manager.

(2) RADIO AND TELEVISION ANTENNAS.

(a) Prohibition.

No radio or television antenna or supporting cable shall be placed, suspended, constructed or maintained on, along or across any Village street or attached to any Village light pole, utility pole or any tree or trees growing in the parkway adjacent to a village street or in any public way.

#### **7.04 PERMITS FOR OBSTRUCTING AND MOVING STRUCTURES UPON STREETS.**

(1) No person shall obstruct any part of any street, alley, public grounds, parkway or sidewalk in the village, by placing or causing to be placed any piles of earth, stone, timber, lumber, planks or other construction material without first obtaining a permit from the Village Clerk-Treasurer upon approval by the Village Manager. The application shall be accompanied by the fee of \$55.00 per month or part thereof. The permittee shall erect such barriers and warning lights as will effectively protect the public. No roadway shall be obstructed by more than one-third of the width nor for a period longer than one month, nor beyond the extension of the lot lines upon which construction work is actually being done. In the event a public sidewalk is obstructed, the permittee shall direct pedestrians around the obstruction by a protected temporary walkway, or to a public sidewalk on the opposite side of the street, all areas shall be placed in as good and clean condition as prior to issuance of the permit.

(2) No person shall erect or move any building, fence or other structure upon any streets, alley or sidewalk or other public grounds within this Village without a written permit therefor as provided in Chapter 30 of the Building Code.

#### **7.05 DUTIES TO PUBLIC IN TEARING UP STREETS.**

(1) It shall be the duty of every person who shall tear up or dig any hole or trench in or cause any obstruction to exist in any street or public ground of said village and all such persons who shall be so engaged in any capacity whatsoever, to see that such streets or other public grounds during the progress of said work shall be passable and not otherwise to be made dangerous, but where the nature of said work necessarily makes travel over such street or other public ground dangerous, every such person shall, during all such times, erect and maintain good and sufficient barriers, with red lights mounted thereon, between sundown and sunrise, to caution the public that said street or other public ground is impassable or dangerous, and prevent travel thereon.

(2) When any street shall have been barricaded in the manner prescribed in subsection (1), no person shall remove or throw down or cause to be removed or torn down any such barrier, or shall proceed upon any portion of said street so enclosed by barriers, except the sidewalk space.

**7.06 STREET TREES. (Ord. 1566)**

(1) **STATEMENT OF POLICY AND APPLICABILITY OF CHAPTER**

(a) **Intent and Purpose.** It is the policy of the Village of Whitefish Bay to regulate and control the planting, removal, maintenance and protection of trees and shrubs in or upon all public and parkway areas of the Village to eliminate and guard against dangerous conditions which may result in injury to persons using the streets, alleys, sidewalks or other public areas; to promote and enhance the beauty and general welfare of the Village; to prohibit the undesirable and unsafe planting, removal, treatment and maintenance of trees and shrubs located in public areas; and to guard all trees and shrubs, both public and private, within the Village against the spread of disease, insects and pests.

(b) **Application.** The provisions of this section shall apply to trees and shrubs growing or hereafter planted in or upon public areas and parkway areas and also to all trees and shrubs growing or planted in or upon any private premises which shall threaten the life, health, safety or welfare of the public or of any public areas.

(2) **AUTHORITY AND POWER**

(a) The Village Manager may designate a municipal employee or citizen to perform the duties of Forester and may authorize such Forester to perform such duties.

(b) The Village Forester or his authorized representative may enter upon private premises at all reasonable times for the purpose of examining any tree or shrub located upon or over such premises and carrying out any of the provisions of this Chapter. If consent at entry to properties which are not public buildings, or to portions of public buildings which are not open to the public for inspection purposes has been denied, the Village Forester shall obtain a special inspection warrant under Sections 66.122 and 66.123, Wisconsin Statutes.

(3) **APPLICABILITY**

(a) This ordinance provides full power and authority over all trees, plants and shrubs located within street right-of-way, parks and public places of the Village; and to trees, plants and shrubs located on private property which shall threaten the life, health, safety or welfare of the public or of any public areas.

(4) **DEFINITIONS**

(a) **Person** - "Person" shall mean, any person, firm, partnership, legal representative, association or corporation.

(b) **Public Areas** - "Public Areas" include all public parks and other lands owned, controlled or leased by the Village.

(c) **Public Trees and Shrubs** - "Public Trees and Shrubs" mean all trees and shrubs located or to be planted in or upon public areas.

(d) **Public Nuisance** - "Public Nuisance" means any tree or shrub or part thereof which, by reason of its condition, interferes with the use of any public area; infected with Dutch Elm disease or injurious to public improvements or endangers the life, health, safety or welfare of persons or property in the Village.

(e) **Parkway Areas** - "Parkway Areas" means the land between the normal location of the street curbing and sidewalk.

(f) **Major Alterations** - "Major Alterations" means pruning a tree beyond necessary pruning the result of which is to stress or deform the structure of the tree.

(g) **Shrubs** - "Shrubs" shall mean any woody plant vegetation or woody plant having multiple stems and bearing foliage from the ground up.

(h) **Tree** - "Tree" shall mean any woody plant, normally having one stem or trunk bearing its foliage or crown well above ground level to heights of sixteen feet (16') or more.

(i) **Evergreen Tree** - "Evergreen Tree" shall mean any woody plant normally having one stem or trunk and bearing foliage in the form of needles and crowns which extend from the ground level throughout its entire height.

(j) **Forester** - "Forester" shall mean a person designated by the Village Manager and authorized to carry out provisions of this Chapter.

(k) **Public Property** - "Public Property" means property owned or controlled by the Village, including without limitation because of enumeration, public sites, parks, playgrounds, streets, alleys, sidewalks, boulevards and parkway strip between the lot line and the curb or improved portion of any public way.

(l) **Median** - "Median" shall mean the non-paved areas between two portions of a street, the two portions being utilized for traffic in opposite directions, said non-paved area containing vegetation, trees or shrubs.

(5) **TREE PLANTING**

(a) Purpose - The Village Board hereby states its determination that the planting, care and protection of the trees within the Village is desirable for the purposes of beauty, shade, comfort, noise abatement and economic betterment and hereby encourages all persons to assist in a program of tree planting, care and protection.

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(b) Tree Planting Program - The Village Forester shall recommend to the Village Board a program for tree planting, care and protection of trees and shrubs on public areas within the Village.

(c) Planting -

(1) Any person proposing to plant trees or shrubs in public areas shall first have the size and genus, species and variety of trees and shrubs, and the manner of planting submitted to the Village Forester for approval before commencement of such work, pursuant to Section 7.06 (9).

(2) There shall be a recommended distance of thirty (30) to fifty (50) feet between parkway area trees depending upon the size of the tree and other factors, as determined by the Village Forester. Parkway trees shall be planted equal distance between the sidewalk and back of the curb or proposed back of curb. In parkway areas less than three (3) feet wide, planting will not be permitted. Parkway area trees shall be a minimum of thirty-five (35) feet from an intersection.

(3) Evergreen trees shall not be planted in a parkway area, unless specifically authorized by the Village Forester.

(d) Unlawfully Planted Trees -

(1) No trees, plants or shrubs shall be planted within any parkway or public area without the authorization and approval of the Village Forester.

(2) The Forester shall notify the abutting owner, in writing, listing the unlawfully planted trees, plants or shrubs, ordering their removal, and establishing a reasonable time within which such removal shall be accomplished. In the event that removal is not accomplished within the time specified, the Village may remove such trees, plants or shrubs and assess the costs thereof to the owner.

(3) No person shall plant, set out or maintain shrubbery in violation of Section 9.02 (4)(d) of the Municipal Code of the Village of Whitefish Bay. (Ord. 1600))

(6) **PRUNING OF TREES AND SHRUBS**

(a) Trees and shrubs standing in or upon any parkway, public area or upon any private premises adjacent to any public right-of-way or public areas shall be kept pruned so that the lowest branches projecting over the public street or ally provide a clearance of not less than fourteen (14') feet. The Village Forester may waive the provision of this section for newly planted trees if he determines that they do not interfere with public travel, obstruct the light of any street light or endanger public safety.

(b) The necessity of the pruning may be determined by the Village Forester.

(c) Clearance from sidewalk to lower branches of any tree shall not be less than ten feet (10'). No tree shall be permitted to grow in such a manner as to obstruct the proper diffusion of light from any public lamp. All trees and shrubs shall be kept trimmed to prevent their branches from encroaching on any public sidewalk.

(d) Pruning Specifications. Pruning of public trees shall be in accordance with the National Arborist Association definition of Class II Standard Pruning and the guidelines of the American National Standards Institute publication ANSI A300-1995.

(7) **REMOVAL OF TREES**

(a) No person shall cut down or in any manner destroy or injure any living shade tree upon any public street, highway or other public ground in said Village without a permit therefor from the Village Forester of said Village.

(b) Hazardous, Obstructive and Infected Trees -

Any tree or part thereof, whether alive or dead, which the Village Forester shall find to be infected with Dutch Elm Disease or found to be hazardous so as to endanger the public or other trees growing within the Village, or to be injurious to sidewalks or other public improvements, shall be removed. The Village Forester shall give written notice to said owner to remedy the situation which shall be served personally or posted upon the affected tree. Such notice shall specifically state the period of time within which the action must be taken, which shall be no more than thirty (30) days as determined by the Village Forester on the basis of the seriousness of the condition of the tree or danger to the public. If the owner shall fail to remove, treat or trim said tree within the time limit, the Village Forester shall cause the tree to be removed, treated, or trimmed and shall report the full cost thereof to the Village Clerk-Treasurer, who shall thereupon enter such costs upon the tax roll as a special charge against the property.

(c) Dangerous Trees -

No tree which in the opinion of the Village Forester is likely to fall upon any sidewalk or street, or is likely to cause damage to any person or property, shall be permitted to remain standing in this Village. It is hereby made the duty of the Village forester to give notice by mail to the owner or owners, or the agent of such owner or owners, of the land upon which any such tree stands if such owner or agent can be found, to remove the same within then (10) days from the date of such notice; if such owner or agent cannot be found, such notice shall be posted on such tree. After the expiration of said ten days' notice, such tree shall be removed by the Village Forester and he shall make written demand by mail for the payment of the cost of such removal, within ten (10) days, on such owner or agent if he can be found. At the termination of said ten (10) days' notice or immediately upon the completion of such work, if such

owner or agent cannot be found the Village Forester shall certify the cost of removing such tree, with the description of the real estate upon which the same stood, to the Village Clerk-Treasurer, and thereupon the Village Clerk-Treasurer shall extend the cost against said real estate in the next following tax roll of said Village.

(8) **PROHIBITED ACTS**

(1) Damage to Public Trees.

No person shall, without permits from the Village Forester, perform or cause to be performed by others any of the following acts upon public trees or shrubs.

(a) Secure, fasten or attach any rope, cable, wire, nails, screws, signs, posters, unprotected electrical installation or over device or material to, around or through any tree or shrub.

(b) 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.

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

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

(2) Excavations -

All trees on any parkway or other publicly owned property near any excavation or construction of any building structure or street work shall be sufficiently guarded and protected by those responsible for such work as to prevent any injury to said trees. No person shall excavate any ditches, tunnels or trenches or install pavement, without consent from the Village Forester, which may impact adjoining trees except in an emergency or for authorized public improvements.

(3) Interference with Forester - No person shall:

(a) Interfere with or prevent any acts of the Forester or his agents or employees while they are engaged in the performance of duties imposed by this section.

(b) Refuse to permit the Forester or his authorized representative to enter upon premises at reasonable times to exercise the duties imposed by this section.

(9) **PERMITS**

(1) Permit Required. No person, except upon order of the Village Forester, shall plant or remove, or perform major alterations as determined by the Forester on a tree or shrub in any public or parkway area or cause such act to be done by others without first obtaining a written permit for such work from the Village Forester as herein provided.

(2) Permit Requirements and Conditions. If the Village Forester determines that the proposed work or planting described in an application for a permit is necessary and in accord with the purposes of this section, taking into account the safety, health and welfare of the public, location of utilities, public sidewalks, driveways and streetlights, general character of the area in which the tree is located or proposed to be located, type of soil characteristics and physiological need of the genus, species and variety of tree, the Forester shall issue a permit to the applicant. Any work under such permit must be performed in strict accordance with the terms thereof and the provisions of this section. Permits issued under this Section shall expire six (6) months after date of issuance. There will be no charge for this permit.

(3) Permit Exemptions. No permit shall be required for Village employees to prune, remove, cultivate, fertilize or water trees and shrubs. No permit is required for citizens to water parkway trees.

(10) **PREVENTION AND CONTROL OF ELM TREE DISEASE**

(1) Public Nuisance. The Village Board declares the following to be a public nuisance:

(a) Any living or dead standing elm tree or part thereof infested with an elm tree disease.

(2) Inspection of Trees. The Village Forester shall periodically cause to be made an inspection of all elm trees, firewood, logs, twigs and branches within the Village on private or public property and make a report to the Village Board of all infected or diseased trees.

(3) Infected or Diseased Trees or Dead Elm Wood. Whenever the Village Forester shall find any diseased or infected elm tree, dead elm wood, dead branches or twigs;

(a) on public property, he shall remove and destroy such infected or diseased tree, dead elm wood, dead branches or twigs on elm trees.

(b) on private property, he shall immediately give to the owner or occupant of said premises thirty (30) days written notice to remove or destroy such diseased or infected elm trees, dead elm wood, dead twigs or branches of elm trees, and if such notice is not complied with within the thirty (30) day period, he may cause such diseased or infected elm tree, dead elm wood, dead twigs or branches of elm trees to be removed and destroyed. The costs of such removal and destruction of elm trees, dead elm wood, dead twigs or branches or elm trees on private property to be billed and collected from the owner of

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said property and if said costs are not paid within thirty (30) days after billing, then said costs shall be reported to the Village Clerk-Treasurer, who shall enter the amount against the respective real estate in the next and subsequent tax roll as special charges against said real estate, and the same shall be collected in all respects like other Village taxes. The Village Forester may, for valid reason, grant an extension beyond the thirty (30) day period.

(4) Treatment of Elm Trees. A property owner with prior approval of the Village Forester as to method and chemical may, at the owner's expense, inoculate, inject or treat a parkway or public elm tree for the prevention of the elm disease. (Ord. 1107)

(5) Transporting Infected Trees, Etc. No person shall keep, store, sell, offer for sale, give away, transfer or transport into or within the Village of Whitefish Bay, any elm tree, elm firewood, branch, stump, log or other elm material which is infected or diseased.

(6) Pruning of Elm Trees on Public Property. Any village resident may request from the Village Forester permission to prune any elm tree located on public property if such tree is adjacent to his property, and the Village Forester may authorize such tree pruning provided:

(a) said resident employs an arborist enrolled upon the Village Foresters list of qualified arborists; and

(b) said resident pays the entire cost therefor.

(7) Qualified List of Arborists. The Village Forester is authorized to prepare and maintain a list of arborists who must show sufficient qualification to trim and prune trees, and to file with the Village a Certificate of Insurance for adequate coverage of personal injury and property damage as determined by the Village Manager.

**7.07 NUMBERING OF BUILDINGS.**

(1) OWNER'S DUTY.

The owner or occupant of every building in the Village of Whitefish Bay is hereby required to place in a conspicuous place on the front of each building, so as to be easily seen and read from the public way, the number indicated on the plan for numbering buildings now in effect or hereafter adopted by the Village Board and on file in the office of the Clerk-Treasurer of said village; each figure of every such number shall be not less than two inches in height and with background not less than three inches in height.

(2) PROCEDURE.

- (a) On buildings to be constructed numbers shall be indicated on the application for the building permit. The Village manager shall cause numbers to be placed on all newly constructed buildings or all existing buildings which have no numbers upon three days' notice to the owner thereof. The owner may elect within such three days' to provide his own number and shall have five days from such election in which to affix the number.
- (b) Numbers shall be furnished by the Village, except where the owner has elected to provide his own number. The cost of any number or numbers or replacements therefor shall be borne entirely by the owner or occupant of the building.

(3) USE OF SUFFIXES.

Where only one number is available for any house or building, the owner who shall desire distinctive numbers of the upper and lower portions of any such house or building shall use the suffix, A,B,C, etc., as may be required.

(4) OTHER NUMBERS PROHIBITED.

It shall be the duty of the owner, occupant or agent of every building to maintain no number other than the number as fixed by the plan for numbering buildings last adopted by the Village Board and on file in the office of the Village Clerk-Treasurer.

**7.08            SIDEWALKS FREE OF SNOW AND ICE. (Ord. 1443)**

(1)        WHEN TO BE CLEARED.

The owner, occupant or person in charge of each and every residence or building in the Village of Whitefish Bay fronting upon or adjoining any streets, and the owner or person in charge of any unoccupied residence, building or lot fronting or adjoining any street, shall clear the sidewalk in front of or adjoining such residence, building or unoccupied lot, as the case may be, of snow and ice to the width sufficient to allow adequate passage for pedestrians passing each other in opposite directions within 24 hours after snow has ceased to fall, and cause the same to be kept clear of snow and ice. However, when ice has so formed on any sidewalk that it cannot be removed, then the person herein referred to shall keep the same sprinkled with sand or other substance to provide traction and shall remove the ice as soon as removal is possible.

(2)        DEPOSITING SNOW, ETC., ON OTHER PROPERTY PROHIBITED.

It shall be unlawful for the owner, occupant or person in charge of each and every residence or building in the Village of Whitefish Bay and for any employee, agent or contractor of such owner, occupant or person in charge of the same, to deposit, permit or allow to be deposited by any employee, agent or contractor any snow or other movable refuse or materials from the walk, driveway or other surface on or abutting the property so owned or leased without the permission of owner or occupant of such other property.

(3)        CONSTRUCTION

In construing the provisions of this section, when the premises are occupied the occupant or person in charge shall be deemed the proper person whose duty it shall be to comply with the provisions of this section.

(4)        PENALTY.

In addition to the forfeiture, the person shall be subject to all applicable statutory costs and assessments. The number of the offense shall be determined on a yearly basis, with each year period beginning October 1 of each year.

(5)        REMOVAL BY VILLAGE.

In the event that the owner, occupant or person in charge fails to clear the sidewalk of snow and ice in front of or adjoining a residence, building or lot within 24 hours after a citation has been issued for violation of Subsection (1) hereof, the Village may clear the sidewalk of snow and ice. In the event that the Village proceeds to clear the sidewalk of snow and ice, the expense shall be charged to the owner, and if not paid, the expense thereof shall be entered by the Clerk-Treasurer in the tax roll as a special tax against said lot, and the same shall be collected in all respects like other taxes upon real estate. The expense shall consist of the actual cost of removal plus \$38.00 to reimburse for Village administrative costs.

**7.09 DRIVEWAY FROM AUTOMOBILE PARKING STATION INTO ARTERY FOR THROUGH TRAFFIC PROHIBITED.**

(1) It shall be unlawful to permit to exist a private driveway from an automobile parking station directly into an artery for through traffic as established by ordinance. An automobile parking station is defined as any lot or parcel of ground used principally for the loading or parking of motor vehicles.

(2) The owner or occupant of any such automobile parking station who shall fail when requested by the Chief of Police to close up such existing private driveway, shall be subject to the penalty provided in Section 7.20 for each and every day that he shall fail to close up such driveway with a suitable barrier after requested so to do by the Chief of Police.

(3) The Village Manager is authorized to erect a barrier as close as possible to the street line across such private driveway upon the failure and neglect of the owner to close up such driveway when requested so to do by the Chief of Police.

**7.10** (Repealed Ord. 1523 8/94)

**7.11 PARKWAY BENCHES.**

Parkway benches may be provided by any resident or business establishment and placed in the parkway area between the curb and the sidewalk at bus stop locations, with the approval of the abutting property owner and the Village Manager. Such parkway bench may carry only the name of the donor, and the area of such identification shall be limited to three inches in height and four feet in length.

**7.12 CONSTRUCTION OF CURB, DRIVEWAYS & SIDEWALKS -PERMITS.**

(l) PERMIT REQUIRED.

(a) Prior to cutting any curb or the construction or reconstruction of any curb, driveway and sidewalk in the public highway (the area between the lot line and the traveled portion of the road), a permit for such work shall be obtained from the Building Inspector who will furnish detailed information as to what utilities or other appurtenances are located in the area and as to just how this work must be accomplished. No permit shall be issued unless the Building Inspector is satisfied that said proposed construction will not interfere with existing utilities or other appurtenances located in said area.

(b) Referrals to Village Plan Commission. Where a parking lot or parking facilities are contemplated in District Number 6, before such permit is issued, detailed plans of parking lots with inlet and outlet facilities must first be submitted to the Village Plan Commission and be approved by said commission.

(2) MANNER OF MAKING CUT.

Where it is necessary to cut through an existing concrete curb of a Village street to install a driveway, the old concrete pavement and curb for its full depth and for the full width of flared driveway shall be removed to a point flush with the street side of the curb. Flare shall be nearly made and to a radius of approximately two feet. Entire portion of curbing removed for purpose of flaring driveway shall be within the confines of the lot which the driveway serves unless agreeable to the adjacent property owners to extend the flare over the lot line. The exact manner of cutting and replacing the curb is shown on a sketch furnished the contractor at the time the curb permit is issued.

(3) EXPANSION JOINTS.

Where cement walks or driveways are built to the curbs, either at cross walks or in front of private property, an expansion joint made up of one-half (1/2) inch strip of asphalted felt shall be inserted.

(4) CONCRETE WALKS.

Public walks shall be of portland cement concrete and built to specifications on file in the office of the Village Engineer. All contractors building public walks in this village shall conform to these specifications and to the grades for same as given by the Village Engineer. A permit shall be obtained from the Building Inspector before beginning such work. Public walks, including those built by the Village, shall be inspected by said village.

(5) FEES.

- (a) The permit fee for cutting of concrete curb and/or the construction of curb and driveway approach shall be \$25.00.
- (b) The permit fee for the construction or replacement of the public sidewalk shall be \$25.00.
- (c) The permit fee for the construction or replacement of the carriage walk between the public walk and the street pavement shall be \$25.00.
- (d) In the event more than one of the above operations are carried out so that the work can be covered by one inspection, the permit fee shall only be higher of the individual fees listed.

**7.13 NEWBOXES IN PUBLIC RIGHT-OF-WAYS (Ord. 1676)**

(a) **Purpose.**

(1) **Statement of Purpose.** The purpose of this Section is to promote the public health, safety and welfare through the regulation of placement, appearance and servicing of newsboxes on public right-of-ways:

- a. To reduce the exposure of the Village to personal injury or property damage claims and litigation;
- b. To provide for pedestrian and driving safety and convenience;
- c. To provide reasonable access for the use and maintenance of sidewalks, poles, posts, traffic signs and signals, benches, hydrants, and access to locations used by pedestrians and for public transportation purposes;
- d. To restrict unreasonable interference with the flow of pedestrian and vehicular traffic including ingress to or egress from businesses, residences, and from the street to the sidewalk by persons accessing parked or standing vehicles;
- e. To protect and improve the aesthetics and value of properties within the Village.

(2) **Preservation of Rights.** It is not the intent of this Section to in any way discriminate against, regulate or interfere with the publication, circulation, distribution or dissemination of any printed material that is constitutionally protected. It is further the intent of this Section to treat all such publications fairly regardless of their size, content, circulation or frequency of publication and to maintain and preserve the freedom of the press.

(b) **Definitions.** The following definitions shall be applicable in this Section:

(1) **Newsbox.** Any type of self-service or coin-operated box, container, storage unit, or other dispenser installed, used or maintained for the sale, display, or dissemination of newspapers, news periodicals or written materials, including circulars, pamphlets, papers, booklets and any other printed or otherwise reproduced written material which advertises for sale any merchandise, product, commodity or thing, or which attracts attention to any business, commercial establishment or other activity for the purpose of directly promoting the interest thereof by sales, private gain or profit.

(2) **Parkway.** The area between the sidewalk and the curb of any street.

(3) **Block.** Both sides of any street in a public right-of-way which exists between two (2) consecutive intersecting streets and is intended to include, but not be limited to, the roadways, streets, parkways, alleys and sidewalks within that right-of-way.

**(c) Prohibitions.**

(1) Prohibitions. No newsboxes shall be placed, installed, used or maintained in a public right-of-way:

- a. Within fifteen (15) feet of any marked crosswalk;
- b. Within fifteen (15) feet of the curb return of any unmarked crosswalk;
- c. Within ten (10) feet of any fire hydrant;
- d. Within one hundred (100) feet of any other newsbox containing the same newspaper, news periodical or written material, except where separated by a street corner;
- e. Within five (5) feet of any driveway;
- f. Within five (5) feet ahead of and fifteen (15) feet to the rear of any sign marking a designated bus stop measured along the curb of the street;
- g. On or within five (5) feet of any access ramp for disabled persons;
- h. On the sidewalk area or any area that is established for pedestrian movement
- i. Where it projects onto, into or rests wholly or in part upon the roadway of any public street;
- j. Within three (3) feet of or on any public area improved With flowers, shrubs, trees or other landscaping;
- k. Within three (3) feet of any display window of any building abutting the sidewalk or parkway, or in such a manner as to impede or interfere with the reasonable use of such window for display purposes;
- l. Within Districts 1, 1A, 2, 3, 5, and 9.

(2) **Newsboxes Grandfathered.** Newsboxes placed in the Village as of the effective date of this Ordinance may be maintained in the same location until they are moved or replaced at which time they shall comply with the requirements of this Ordinance.

(3) **No Attachments.** No newsbox may be attached by chain, bolt, cable, or by any other means of attachment to any light posts, traffic signs or signals, poles, posts, benches, trees, bike racks or hydrants in the public right-of-way, nor attached to any paved surface in the public right-of-way.

(d) **Placement.**

(1) **Placement Distances.** Newsboxes may be placed next to each other, provided that no group of newsboxes shall extend for a distance of more than eight (8) feet along a curb, and a space of not less than six (6) feet shall separate each group of newsboxes.

(2) **Number.** No more than five (5) newsboxes shall be located on any public right-of-way within a space of two hundred (200) feet in any direction within the same block of the same street; provided, however, that no more than ten (10) () newsboxes shall be allowed on any one (1) block. No individual newsbox owner or publication may locate more than two boxes in the public right-of-way on any block. No more than five (5) newsboxes shall be grouped together. In determining which newsboxes shall be permitted to be located or to remain if already in place, the Village Manager shall be guided solely by the following criteria:

- a. First priority shall be daily publications [published five (5) or more days per week].
- b. Second priority shall be publications published one (1) day per week.
- c. Third priority shall be publications published less frequently than weekly.

(3) **Parked Vehicles.** Newsboxes shall not interfere with parked vehicles, including the opening of vehicle doors.

(e) **Standards for Maintenance**

(1) **Graffiti Abatement.** The owner of any newsbox shall not continue to use any newsbox that has been defaced with graffiti; further, the owner shall be responsible to remove graffiti within 24 hours of notification by a Village official.

(2) **Maintenance and Repair,** Each newsbox shall be adequately maintained in a neat and clean condition and in good repair at all times. As used in this Section adequate maintenance" and "good repair" shall mean that each newsbox is serviced and maintained:

Section 7.13 (e)(2)

- a. To be reasonably free of dirt and grease;
- b. To be reasonably free of chipped, faded, peeling or cracked paint on the areas visible on the outside of the box;
- c. To be reasonably free of rust and corrosion on the areas visible on the outside of the box;
- d. Such that clear plastic or glass parts, if any, are reasonably free of cracks, dents and discoloration.

(3) **Size.** No newsbox shall exceed fifty (50) inches in height and thirty (30) inches in width, or depth.

(4) **Coin Boxes.** Newsboxes equipped with a coin box shall also have a coin-return mechanism to permit a person using the box to secure an immediate refund in the event the person is unable to receive the materials paid for. The coin-return shall be maintained in good working order at all times.

(5) **Person to be Notified.** Each newsbox shall have affixed to it, in a readily visible place so as to be seen by anyone using the newsbox, a notice setting forth the name and address of the newsbox-owner or owner's representative, and a telephone number of a working telephone service to call and report malfunctions and other violations of this Section.

(6) **Color.** The Community Development Authority by resolution designate an acceptable color or colors for newsboxes in the Village. Newsboxes in the Village must comply with any such designation of acceptable colors.

(f) **Violations.**

(1) **Notice of Violation.** Upon determination by the Village Manager that a newsbox has been installed, used, or maintained in violation of the provisions of this Section, an order to correct the violation shall be issued by posting a copy of the order upon the newsbox itself, and by mailing a copy of the order by certified mail to the owner or owner's representative. The order shall specifically describe the offending condition and provide information regarding the right of appeal. Within fifteen (15) days of the issuance of the order, the owner of the newsbox shall either:

- a. Correct the violation; or
- b. Remove the newsbox from the public right-of-way.

(2) **Removal.** If after fifteen (15) days the owner of the newsbox has not taken action as prescribed within this Section, the offending newsbox may be removed from the public right-of-way by the Village. Notice shall be sent to the owner or owner's representative advising that the newsbox has been removed and that a fee for removal shall be assessed as provided herein.

(3) **Emergency Removal.** The fifteen (15) day notice of violation provision which would be required prior to removal may be waived when, in the discretion of the Village Manager, immediate removal of a newsbox is required because of its condition or its placement, and the newsbox presents a serious and immediate threat to public health and safety.

(4) **Fees.** The cost of removal shall be assessed against the owner of each newsbox removed by the City under this Section. The Village Manager shall cause inspection to be made after a condition cited under this Section has been corrected. The owner of the newsbox shall be charged an inspection fee of \$25.00 for each newsbox so inspected.

(g) **Appeals.** Any person or entity aggrieved by a finding, determination, notice, order or action taken under the provisions of this Section may appeal to the Board of Appeals within thirty (30) days of being served by certified mail with such finding, determination, notice, order or notice of action taken.

**7.14 SANDWICH SIGNS VISIBLE FROM THE RIGHT OF WAY: (Ord. 1748)**

**SANDWICH SIGNS-**

Sandwich signs not otherwise requiring a permit under Section 16.18 of the Zoning Code are prohibited throughout the Village except as provided in this Ordinance.

1. The Village Board may authorize the creation and administration of a Sandwich Sign Program (“Program”) by any public or quasi public entity with jurisdiction in the Village including but not limited to the Community Development Authority and any Business Improvement District (“Implementing Entity”). Such authorization shall be granted by resolution, subject to revocation at any time, and subject to the restrictions and condition set forth in this Ordinance, together with any standards approved by the Village Boar (“Standards”).

2. The Standards of any Program shall, at a minimum, contain the following provisions:

A. The Implementing Entity shall purchase and make available for rental Sandwich Signs of standard design, dimension, material, technical specification, and nature so as not to harm the overall aesthetic appeal of properties along the rights of way addressed by this Ordinance.

B. No more than twelve (12) Sandwich Signs may be in use under this Section within the Village at any time.

C. Sandwich Signs will be made available for rental to businesses, upon application setting forth the business need for the Sandwich Sign. The Implementing Entity shall determine who may rent a Sandwich Sign and when, subject to appeal to the Board of Appeals for failure to comply with this Ordinance, the Program, or the Standards.

D. Sandwich Signs will be made available and rotated monthly between businesses on a first-come-first-served basis based on availability, and time of request. In no event will any business be allowed to rent a Sandwich Sign two months in a row while any business is denied access to a Sandwich Sign two months in a row (except for cause under this Ordinance or the Standards). Requests for Sandwich Signs rental may be submitted up to ninety (90) days in advance.

E. In no event may a Sandwich Sign be located within fifty (50) feet of another Sandwich Sign.

F. The Implementing Entity shall charge rent for a Sandwich Sign which is reasonably calculated to pay for and maintain the Sandwich Signs over their life including maintenance, depreciation, and the establishment of replacement reserves. The rental rate charged shall be subject to review and approval by the Village Treasurer.

Section 7.14 (2)(g)

G. Sandwich Signs shall be limited to ten (10) total square feet with a width not exceeding two point five (2.5) feet and a height not exceeding four (4) feet when open.

H. Sandwich Signs may not be illuminated or reflective. No balloons, banners, or other dressings may be attached to Sandwich Signs. Damaged or poorly maintained Sandwich Signs may not be placed outdoors within the Village.

I. Sandwich Signs may only be displayed during the hours in which the business displaying the Sandwich Sign is open and must be stored indoors when not in use.

J. Messages on Sandwich Signs may advertise on-site business offerings only.

K. The name and phone number of the Implementing Entity shall be conspicuously printed on each Sandwich Sign.

L. Sandwich Signs may only be placed on private property owned or leased by the business advertised and may not be placed in public rights of way.

M. The Implementing Entity may repossess any Sandwich Sign improperly used under this Ordinance or the conditions of the Implementing Entity then may, at the Implementing Entity's discretion prohibit Sandwich Sign rentals by any person, business or entity failing to comply with this Section or the Standards.

N. Any business person or entity renting a Sandwich Sign from the Implementing Entity shall enter into a written rental agreement with the Implementing Entity.

O. The Standards shall be submitted to the Planning Commission by the Implementing Entity on an annual basis. The Planning Commission shall advise the Village Board of whether it recommends that the Village Board continue authorizing the Implementing Entity, require changes to the Program or the Standards, or adopt any other resolution changing the Program or the Standards.

P. Sandwich signs may only be displayed in the Village pursuant to this Section and within (50) feet of the Silver Spring Drive right-of-way west of Danbury Road.

Violation of this Section or rules adopted pursuant thereto shall be subject to the general penalty provided in Section 17.4 of the Municipal Code or such other penalty as the Village Board may specify from time to time.

## **7.20 PENALTY.**

Any person who shall violate any provision of this chapter shall be subject to a penalty as provided in Section 17.04 of this code, in addition to any specific penalty provided herein. A separate offense shall be deemed committed on each day on which a violation of any provision of this chapter occurs or continues. As and for a further penalty for any violation of this or any other provision in the Municipal Code, the Village Board hereby empowers the Village Manager or designee to, after providing notice in person or via United States mail to the last known owner of the property at least two (2) business days in advance, perform such work on said property as is required to render the property compliant with the Municipal Code. The reasonable cost of such work shall be billed to the last known property owner and such bill shall be due and payable within fifteen (15) days after it has been mailed. Amounts due after said period of time shall be delinquent and shall become a lien upon the property and may be placed on the tax bill of the property in question as a special charge for current services as provided in § 66.0627 Wis. Stats. (Ord. 1781)