

TITLE 6

Public Works

Chapter 1	Grades
Chapter 2	Streets and Sidewalks
Chapter 3	Driveways
Chapter 4	Trees and Shrubs

Chapter 1

Grades

- 6-1-1 Establishment of Grades
- 6-1-2 Alteration of Grade Prohibited
- 6-1-3 Regulation and Grades of Underground Utilities

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. In the alternative to this procedure, grades may be established by a developer's agreement.
- (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.

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 Prescott 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 shall be a minimum of thirty (30) inches below the established grade of the street, alley, park, public property or easement. The thirty (30) inches 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 travel way, 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.

Chapter 2

Streets and Sidewalks

6-2-1	Removal of Rubbish and Dirt from Sidewalks
6-2-2	Construction and Repair of Sidewalks
6-2-3	Excavations of Streets, Alleys, Public Ways and Grounds
6-2-4	Regulations Governing Excavations and Openings
6-2-5	Obstructions and Encroachments
6-2-6	Street Privilege Permit
6-2-7	Snow and Ice Removal
6-2-8	Terrace Areas
6-2-9	Vaults
6-2-10	Requests for Improvements
6-2-11	Unlawful Dumping on Streets
6-2-12	Street Numbers
6-2-13	Obstruction of Public Ditches
6-2-14	Use and/or Lease of City Equipment
6-2-15	Bidding of Public Construction Projects
6-2-16	Dirt and Debris on Streets
6-2-17	Damages to Streets and Public Property
6-2-18	Adoption of State Statutes Concerning Roads
6-2-19	Newspaper Receptacles
6-2-20	Sale or Display of Merchandise Prohibited; Special Event Vending Permit

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

No owner or occupant shall allow the sidewalk abutting on his 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. 66.60(16), 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, unless by petition to the Common Council and having permission therefore granted by the Council, or upon the Common Council's own motion, or where such a change in the specifications hereinafter set forth shall be deemed in the best interests of the City.
- (2) **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) Cost of Sidewalks.¹

- ~~(1) **New Sidewalks.** Sidewalks required in new subdivision and developments shall be paid for by the land divider pursuant to Title 14 of this Code of Ordinances. New sidewalks constructed in existing areas of the City shall be paid for by adjacent property owners.~~
- ~~(2) **Sidewalk Repair and Reconstruction.** Existing sidewalks that are repaired and reconstructed shall be paid for fifty percent (50%) by the adjacent property owner and fifty percent (50%) by the City.~~
 - (1) **New Sidewalks and/or Bikeways.** Sidewalks and/or Bikeways required in new subdivisions and developments shall be paid for by the land divider pursuant to Title 14 of this Code of Ordinances.
 - (2) **Sidewalk Reconstruction.** Existing sidewalks that are reconstructed shall be paid for one hundred percent (100%) by City if the sidewalk is shown on the current sidewalk Master Plan.
 - (3) **Sidewalk Reconstruction.** Existing sidewalks that are reconstructed shall be paid for one hundred percent (100%) by the adjacent property owner if the sidewalk is not shown on the current sidewalk Master Plan.
 - (4) **Sidewalk and/or Bikeway Construction.** Sidewalks and/or bikeways that are constructed shall be paid for one-hundred percent (100%) by City if the sidewalk is shown on the current sidewalk Master Plan.
 - (5) **Sidewalk and/or Bikeway Construction.** Sidewalks and/or bikeways that are constructed shall be paid for one-hundred percent (100%) by the adjacent property owner if the sidewalk and/or bikeway are not shown on the current sidewalk Master Plan.
 - (6) **Sidewalk Removal.** Sidewalks that are removed without replacement shall be paid for one hundred percent (100%) by the City if the sidewalk is not shown on the current sidewalk Master Plan. Restoration of the area shall be the sole responsibility of the adjacent property owner.

¹ Adopted 3/12/07

- (c) **Sidewalk Permit Required.** No person shall hereafter lay, remove, replace or repair any public sidewalk within the City unless he is under contract with the City to do such work or has obtained a permit therefore from the Director of Public Works or his designee at least seven (7) days before work is proposed to be undertaken. No fee shall be charged for such permits. Denial of such permits may be appealed to the Common Council.
- (d) **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.
 - (2) **Subgrade.** Subgrade shall be three (3) inches of sand fill, thoroughly and uniformly compacted and brought to correct grade. Soft, porous and unsuitable subgrade material shall be removed and replaced with sand 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) **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.
 - (4) **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.
 - (5) **Jointing, Floating and Finishing.** Soon after screening and while the concrete is still plastic, 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 pre-molded 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 pre-molded material.
 - (6) **Slope.** All forms must be approved by the Director of Public Works or his designee 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. Sidewalks shall be constructed within the limits of the street, 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.

- (7) **Width and Thickness.** Residential walks shall be four and one-half (4-1/2) feet in width and not less than four (4) inches thick, except within driveway approaches where the minimum thickness shall be six (6) inches, provided that walks in residential areas may be repaired or replaced to a width not less than the existing width. 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. In the case of a lay down 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, Except as required by Section 6-1-1 (b) (2), 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. Appropriate curb ramps shall be installed that meet the requirements of the Americans with Disabilities Act,
 - (8) **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.
 - (9) **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.
 - (10) **Cold Weather Requirements.** When the temperature is less than forty (40) degrees F., all concrete placed in the forms shall have a temperature between fifty (50) degrees F. and seventy (70) degrees F. and shall meet the requirements as per Wisconsin Department of Transportation specifications for cold weather concrete.
 - (11) **Minor Repairs.** Nothing in this Section shall apply to minor repairs, the cost of which does not exceed Five Hundred Dollars (\$500.00) such repairs may be made at the direction of the Director of Public Works without notice, and the cost thereof may be charged to the abutting property owner in the same manner as provided in this Section for major repairs.
 - (12) **Whole Block Repair.** When repairing a sidewalk the entire block will be repaired at one time unless approved by the Public Works Director for partial replacement.
- (e) **Repair or Replacement of Defective or Damaged Sidewalks.** Pursuant to Sec. 66.615, 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 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 Sec. 66.615(3)(c), Wis. Stats., 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.

- (f) **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.

Sec. 6-2-3 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 casement within the City of Prescott without a permit therefore from the Building Inspector 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; 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 doubled 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.
- (b) **Application for Permit.** The application for a permit shall be in writing and designed by the applicant or his agent. The applicant shall submit to the Building Inspector or 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 Building Inspector 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 six (6) months 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 Building Inspector or Director of Public Works. Permit renewals shall be issued at the discretion of the Building Inspector 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 Required.** A permit shall be issued only upon condition that the applicant submit to the Building Inspector or Director of Public Works satisfactory written evidence that applicant has in force and will maintain during the time the permit is in effect public liability insurance of not less than \$500,000 per One (1) person, \$500,000 for one (1) accident and property damage coverage of not less than \$500,000.
- (h) **Bond.**
 - (1) Before a permit for excavating or opening any public street, sidewalk, ditch, alley or public right-of-way may be issued, the applicant must execute and deposit with the City a bond in the amount of Ten Thousand Dollars (\$10,000.00), conditioned that he will indemnify and save harmless the City of Prescott 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 up 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 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 Building Inspector or Director of Public Works 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 drain laying 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 bond 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.

- (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 therefore 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.
 - (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. 66.06 and 196.01, Wis. Stats., are hereby required to be bound by the terms and conditions of this Section and Section 6-2-4, any and all subparagraphs there under, except that a public utility as defined within this Section shall not be required to post the indemnity bond.

Sec. 6-2-4 Regulations Governing Excavations and Openings.

- (a) **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 Building Inspector to be an emergency excavation.
- (b) **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 City and in accordance with Section VI of the Manual of Uniform Traffic Control Devices. Sufficient warning lights shall be kept on from sunrise to sunset. No open flame warning devices shall be used. Except by special permission from the Building Inspector or 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 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 employees of any necessary precaution against injury or damage to persons, vehicles or property of any kind.

- (3) 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 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.
- (4) 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 or Building Inspector 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).
- (5) 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).

(c) **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 work and in accordance with all applicable codes and regulations.
- (2) 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 Building Inspector shall, on the basis of an on-site inspection, approximate the boundaries of the pavement replacement area.
- (3) 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.
- (4) The Director of Public Works or Building Inspector 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.

(d) **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.
- (e) **Backfilling.**
- (1) All backfill material shall be free from cinders, ashes, refuse, vegetable or organic matter, boulders, rocks or stones greater than eight (8) inches in their greatest dimension, frozen lumps or other material which in, in the opinion of the Director of Public Works or Building Inspector, is unsuitable.
 - (2) 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 Building Inspector, hauled in.
 - (3) 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.
 - (4) Mechanical compaction shall be used on all materials used for trench backfill. Each layer (12-inch maximum) shall be uniformly compacted. Compaction or consolidation by flooding shall not be permitted. Earth must be puddled or laid in layers not more than twelve (12) inches in depth and each layer rammed and tamped to prevent settling. The Public Works Department has the right to request testing of fill and compaction, at the expense of the permittee. Contractors will be instructed by the City inspector, if he meets the specifications, to proceed to fill the opening.
 - (5) 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.
 - (6) 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.
- (f) **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.
- (g) **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. The finished surface shall be smooth and free of surface irregularities and shall match the existing pavement and any casting, or street appurtenances. Allowable deviations shall be no more than one-quarter (1/4) inch as measured with a ten (10) foot straight edge.

- (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 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.
 - (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 July 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, including pump laterals, even if not immediately needed.
- (h) **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 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.
- (i) **Excavation in New Streets Limited.** Whenever the City 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.

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.

Sec. 6-2-5 Obstructions and Encroachments.²

- (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 permitted such encroachment or encumbrance to be placed or remain on any public way adjoining the premises of which he is the owner or occupant, except as provided in Subsections (b) and (c).
- (b) **Exceptions.** The prohibition of Subsection (a) shall not apply to the following:
 - (1) Temporary encroachments or obstructions authorized by street privilege permit under Section 6-2-6 pursuant to Sec. 66.045, Wis. Stats.
 - (2) Building materials for the period authorized by the Common Council, Common Council, or authorized designee, 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) Awnings which do not extend below any point seven (7) feet above the sidewalk, street or alley.
 - (5) Public utility encroachments duly authorized by state law or the Common Council.
 - (6) Temporary obstructions authorized by permit pursuant to Subsection (c).
 - (7) Goods, wares, merchandise, or fixtures being loaded or unloaded which do not extend more than three (3) feet on the sidewalk, provided such goods, wares, etc., do not remain thereon for a period of more than two (2) hours.
 - (8) Signs or clocks attached to buildings which project not more than three (3) feet from the face of such building and which do not extend below any point ten (10) feet above the sidewalk, street or alley.
 - (9) Premises authorized by an existing, valid sidewalk café permit issued under 6-2-6A
- (c) **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 shall issue a written notice to the

² Adopted 07/11/05

owner or occupant of the premises which adjoins the obstructed sidewalk directing that the obstruction be removed within twenty-four (24) hours.

- (d) **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 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.
- (e) **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, the ~~Council~~ City Administrator 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. 6-2-6 Street Privilege Permit.

- (a) **When Required.** Permits for the use of the streets, alleys, sidewalks or other public ways or places of the City 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 and Building Inspector prior to issuance of the permit. City officials may attach conditions to the permit, including proof of liability insurance.
- (b) **Bond.** No street privilege permit shall be issued until the applicant shall execute and file with the City Clerk-Treasurer a bond not exceeding Ten Thousand Dollars (\$10,000.00), conditioned that the applicant will indemnify and save harmless the City 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.
- (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 Building Inspector, Chief of Police or Director of Public Works 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) 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.
 - (5) 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.
- (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. 66.045, Wis. Stats.

6-2-6A Sidewalk Cafe Permit

(a) **Purpose; findings.**

The purpose of this article is to allow sidewalk cafes and set forth the conditions under which a sidewalk cafe may be permitted to operate on a public sidewalk in specified areas of the City. Seasonal use of the sidewalks adjoining food-serving establishments with the limitations set forth in this article. will have a de minimis impact on parking and traffic while encouraging revitalization of the core of downtown Prescott.

(b) Permit required.

Use of public sidewalks for the purpose of operating a sidewalk cafe in the City of Prescott is prohibited unless a permit is obtained as provided in this chapter.

(c) Definitions.

- (1) A sidewalk cafe is any group of tables and chairs and decorative and accessory devices situated and maintained upon the public sidewalk for use in connection with the consumption of food and/or beverages sold to the public from an adjoining food serving establishment.
- (2) To be eligible to apply for a sidewalk cafe permit, the establishment for which a sidewalk cafe permit is being sought must have derived more than 50% of its gross sales revenue during the six months immediately preceding the date of permit application from the sale of food and beverages not containing alcohol. Documentation of such will be attached to the application by a copy of relevant business records, and further support documentation may be request by the City.
- (3) Only the sale of food and beverages is allowed at sidewalk cafes.

(d) Sidewalk cafe permit issuance.

A sidewalk cafe may be permitted only by issuance of a permit to be issued by the City Administrator after inspection by the Director of Public Works and approval by the City Council. The City Council may impose such conditions, as it deems necessary to assure the proposed operation meets the requirements of this article and to maintain the public safety and welfare. In considering an application for a sidewalk cafe permit the City Council shall consider comments from the applicant, the public, and City staff including the Director Public of Works, the Chief of Police, and City committees.

(e) Permissible locations.

A sidewalk cafe may be permitted only on commercially zoned property and contiguous public property as delineated by the City in the sidewalk cafe permit as issued.

(f) Allowable configurations.

A sidewalk cafe may be established by using one or more of the following configurations, subject to approval of the City Council, taking into consideration the configurations of other established and potential sidewalk cafes within the same city block:

- (1) Abutting the storefront: A sidewalk cafe may be located on the public sidewalk immediately adjacent to and abutting the associated indoor food-serving establishment provided that the area in which the sidewalk cafe is located extends no farther along the sidewalk length than the actual sidewalk frontage of the operating indoor food-serving establishment.

- (2) Abutting the curbside: A sidewalk cafe may be located on the public sidewalk at least three (3) feet from the face of the curb provided that the area in which the sidewalk cafe is located extends no farther along the sidewalk length than the actual sidewalk frontage of the operating indoor food-serving establishment.
- (3) Corner parcels: If the indoor food-serving establishment is located on a corner parcel, the sidewalk cafe may also utilize the adjacent sidewalk along the side of the indoor food-serving establishment in the configurations set forth in subsections (1) and (2)..

(g) Sidewalk clearances and furniture location requirements.

Appropriate setbacks and clearances for a sidewalk cafe shall be determined by the City Council in accordance with the following standards:

- (1) A sidewalk cafe may be permitted only where the sidewalk is wide enough to accommodate both the usual pedestrian traffic in the area and the operation of the proposed cafe. A minimum width of six (6) feet of sidewalk shall be kept clear and unimpeded for pedestrian traffic if the pedestrian passageway abuts the face of curb. Elsewhere, a five (5) foot wide pedestrian passageway shall be maintained unless a wider clearance is deemed necessary for public safety.
- (2) All tables and chairs comprising a sidewalk cafe shall be set back not less than three (3) feet from the curb face and from any sidewalk or street barrier. Aisle clearances of a minimum of 44 inches shall be provided. Sidewalk cafes shall not block access to trashcans, parking meters, newspaper racks, bus stops, or other such uses of the public right-of-way.
- (3) No tables or chairs or other furniture shall be placed so as to impede building ingress and egress. All outdoor dining furniture and stanchion barriers, including tables, chairs, umbrellas, and planters, shall be moveable and shall be arranged to adequately accommodate persons with disabilities including the visually impaired.
- (4) Umbrellas are not permitted except as specifically described in the sidewalk cafe permit issued and then only upon the conditions set forth in said permit.

(h) Signs.

Signs shall be limited to a menu board and the notices required by section (i)(3) and (k)(6) together with other signage permitted by City ordinances.

(i) Service of food and beverages; alcoholic beverages.

A sidewalk cafe may serve only food and/or beverages prepared or stocked for sale at the adjoining indoor food-serving establishment. The sidewalk cafe permit may authorize the service of alcoholic beverages within the area of the sidewalk cafe provided that the following requirements are met:

- (1) The applicant has been issued all required alcohol beverage and restaurant/food licenses which include the subject sidewalk cafe area and is in compliance with the terms thereof.

- (2) The area in which the sidewalk cafe is authorized is clearly delineated and separated from the areas of the sidewalk by a stanchion barrier at a prescribed barrier height of three (3) feet. The stanchions are to have manufactured weighted bases with the base edge placed so that the designated pedestrian walkway is not impeded. Stanchion barriers shall be secured with a base approved by the Director of Public Works.
- (3) One or more signs, as required by the Chief of Police, shall be posted during all times of operation of the sidewalk cafe which shall give notice to customers that the drinking of alcoholic beverages or carrying of any open container which contains alcoholic beverages is prohibited and unlawful outside the delineated area of the sidewalk cafe.
- (4) The sidewalk cafe shall have at all times of operation a duly licensed bartender/operator in control of the designated area of the sidewalk cafe for purposes of assuring all applicable laws pertaining to service of alcoholic beverages are upheld, that customers served are of the legal drinking age, and that alcoholic beverages are not removed from the premises. This control of the designated area will minimally be by direct line-of-sight control and may not be met by the placement of video cameras with the monitoring of the same, done in an area of the establishment that is not in direct line-of-sight to the designated area of the sidewalk cafe.
- (5) Should glass breakage become a public safety hazard in this sidewalk area, the Chief of Police and the City Administrator have the right to require all beverages be served in unbreakable containers for the good of the public.
- (6) Storage of beverage glasses, carafes, pitchers, and similar plasticware shall be inside the indoor food-serving establishment. No napkins, utensils, plasticware, dishes, plates, or other items shall be set upon any table except during such time as the table is in use by a customer. No taps, kegs, coolers, or other alcoholic beverage storage or storage devices are allowed outside on the sidewalk.

(j) Outdoor preparation of food; restrooms; cleanliness and removal of litter.

- (1) The outdoor preparation of food is prohibited at sidewalk cafes. Restrooms for the sidewalk cafe shall be provided in the adjoining indoor restaurant.
- (2) The permittee shall remove all trash and litter as it accumulates. The permittee is responsible for maintaining the outdoor dining area, including the sidewalk surface and furniture and adjacent area, in a clean and safe condition at all times. Refuse storage that is part of the designation area will be in a closed refuse container and is prohibited in the public right-of-way. No refuse storage container(s) will be left outside at anytime the indoor food-serving establishment and/or sidewalk cafe is not open for business. Sidewalk and

flooring areas must be swept and kept clean, including adjacent sidewalk areas. If garbage is to be allowed to be picked up in this area by the Director of Public Works as per Sec 8-3-3, on garbage pick up days the area shall be washed down before the Sidewalk Café is to be set up.

- (3) All other health codes, regulations, and inspection requirements shall be complied with.

(k) Rules of operation.

(1) Sidewalk cafes shall not open before 6:00 a.m. nor remain open past 11 :00 p.m., provided however, that the hours of operation of the sidewalk cafe shall not extend beyond the approved hours of the adjoining indoor food-serving establishment. The hours of operation may be further restricted by the City Council in the permit terms and conditions for any reason including proximity to residential uses. All fixtures, equipment, supplies, and trash shall be removed from the sidewalk no later than one hour after the time of sidewalk cafe closing and shall not be on the sidewalk at anytime when the business is closed.

(2) Service provided in the designated sidewalk cafe area will be limited to persons seated at the tables, and will be provided only for the serving of food and beverages. Food service shall be available at all times that the sidewalk cafe is open. No part of the designated area will be used for recreational activities.

(3) All fixtures used in operation of the sidewalk cafe shall be cleaned, stored and secured within the physical confines of the indoor food-serving establishment during times the cafe is not in operation so as not to create a hazard to traffic or pedestrians

(4) If the sidewalk cafe operates after sunset, the indoor food-serving establishment shall provide adequate lighting, fed from its power source, so. that the furniture/stanchion/barrier does not become a hazard to pedestrians. Lighting of the area must be shielded and not be of intensity or brilliance to create glare which is distracting to adjoining property owners or can become a hazard or danger to vehicular traffic. Any auxiliary lighting utilized in the designated area that is affixed to any furniture/stanchion fixture and/or accessible to the reach of any customer or pedestrian passer-by must be powered by either a battery source or low-voltage lighting connected to a GFCI protected outlet fed from the indoor establishment's main electrical panel. Extension cords, multiple outlet plug power strips are strictly prohibited as a power source. Lighting shall be approved by the Director of Public Works.

(5) Smoking is not permitted in the approved sidewalk cafe area.

(6) The sidewalk cafe permit must be visibly displayed during business hours.

(7) Live music, spot lights, video equipment including TV's and noise or other traffic distractions shall not be permitted in this sidewalk café area. Dinner music generated from the main establishment and played over outdoor speakers may be permitted with approval and written permission for the Chief of Police as per Sec. 11-2-7(e) of this code of ordinances.

(8) The permittee shall at all times comply with all laws, rules, and regulations of any local, state, or federal authority.

(1) Term and renewal of permit; temporary suspension of operation.

(I) A sidewalk cafe permit may be approved for a maximum period of one year from the date of its original issuance. No permittee shall obtain any property or other right in the continued use of any permit or public property or sidewalk and non-renewal may be for any reason or for no reason.

(2) . A sidewalk cafe permit shall not be transferable.

(3) The City of Prescott reserves the right to temporarily suspend the operation of the sidewalk cafe (a) upon seven (7) days' written notice because of anticipated or actual conflicts in the use of the sidewalk area, including but not limited to scheduled festivals, parades, and similar events, street or sidewalk repairs and (b) in an urgency as determined by the City without prior notice. Failure or inability to give prior written notice shall not affect the right and power of the City to temporarily prohibit the cafe's operation at any particular time. The City, its agents and employees, shall not be responsible for fixtures or property that may be damaged, moved, relocated or removed.

(m) Application for permit.

(I) An application for a sidewalk cafe permit and renewals thereof shall be completed on the form provided by the City and shall be accompanied by the fee as set forth in the City ordinances.

(2) The applicant shall provide all information requested in application form including the site plan drawn to scale with the scale used so noted on the drawing, showing the area adjacent to the food-serving establishment including all public improvements (curb, gutters, sidewalks), dimensions from curb to the property line and to the building, all objects within this area including light standards, utility poles, trees, tree wells, trash receptacles, public and private planters, and location of the doorway to the establishment. The distance to doorways of adjacent business establishments, including doorways of rental units located within the adjacent business establishment's building, must also be shown if they are within five (5) feet of the side boundaries of the business seeking the sidewalk cafe permit. The area to be used for the sidewalk cafe shall be shown on the site plan with all dimensions and furniture location.

- (3) Before the permit application is submitted to the City Council, the City Administrator shall mail to all owners of property within 100 feet of the applicant's property and the proposed sidewalk cafe property notice that an application for a sidewalk cafe has been filed. The list delineating the full names and address of property owners and occupants to whom notice was sent will be attached to the sidewalk cafe permit application packet. The notice shall contain a copy of the diagram submitted by the applicant, state whether or not the business is licensed to serve alcoholic beverages at the sidewalk cafe if the permit is granted, and state that all comments concerning the proposed sidewalk cafe must be received by the City Clerk within 15 calendar days from the date of mailing the notice.
- (4) The City Administrator shall forward all applications for review to the Chief of Police for any business which holds a valid liquor license or in which the serving of alcoholic beverages is intended. The Chief of Police, upon review of the application, shall promptly indicate in writing his/her approval of the application and/or forward a memorandum of concerns to the City Administrator for consideration.
- (5) The City Administrator shall promptly forward each fully completed application packet with all other relevant documents and information to the City Council for final review and action of approval or denial once such documentation and information is complete.

(n) Revocation of permit; appeal.

A sidewalk cafe permit may be revoked by the City Council temporarily or permanently after public meeting upon ten (10) day's written notice to the permittee upon a finding that the permit was issued on inaccurate or incomplete information, that the permit was improvidently granted, that one or more conditions of the permit or the provisions of this article have been violated, that the sidewalk cafe is being operated in a manner which constitutes a nuisance, that the operation of the sidewalk cafe unduly impedes, restricts, or presents a hazard to the movement of vehicle's or pedestrians, or for any other reason in its discretion.

(o) Liability; indemnification of the City of Prescott; insurance.

- (1) The permittee shall be liable for all injuries and damages, including personal injury and/or property damage, proximately caused by or in any way related to the operation of the sidewalk cafe and shall defend, indemnify, and hold harmless the City, its officers or employees.
- (2) The permittee shall maintain in full force upon application for the sidewalk cafe permit and at all times during the term of said sidewalk cafe permit a comprehensive general liability policy with \$1,000,000 single limit, \$1,000,000 products/completed operations, and \$10,000 single limit medical payment coverages for bodily injury and property damage, as well as any required insurance to cover any claim arising out of liability related to the serving of alcoholic beverages. The permittee shall provide a certificate of insurance and a separate endorsement to the insurance policy, which names the City as an

additional insured. The policy shall provide for 30 day's notice of cancellation to the city and shall be in a form approved by the City.

Sec. 6-2-7 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 Prescott 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 and will be billed by the City. The fee will be charged against the respective lots and parcels of land adjacent to which said work shall be done, as a special tax, and such sum or sums shall be collected in the same manner as other special taxes.
- (c) **Prohibited Placement.** Except as provided herein, no person shall deposit or cause to be deposited any snow or ice taken and removed from his premises or elsewhere upon any sidewalk, alley, parkway, public place or street in the City, provided however, that the person, firm, or corporation depositing such snow shall, within one (1) hour thereafter, cause the same to be removed from such street.
- (d) **Snow and Ice as Nuisance.** The deposit of any snow or ice upon any sidewalk, alley or street of the City contrary to the provisions of this Chapter shall be and is declared to be a nuisance, and in addition to the penalty provided for violation of this Section, the City may similarly remove any snow or ice so deposited and cause the cost of said removal to be charged to the owner or occupant of the property from which said snow or ice has been removed.
- (e) **Penalties.** In addition to the liability of the owner or occupant of lands under Subsection (b), the penalty for violation of any provision of this Section of the Code will be a penalty as provided in Section 1-1-7. A separate offense shall be deemed committed for each day of which a violation of this Section occurs or continues.

State Law Reference: Sections 66.60(16) and 66.615(3)(f) and (5), Wis. Stats.

Sec. 6-2-8 Terrace Areas.

- (a) **Definition.** The definition of "terrace" shall be as defined in Section 6-4-2(f). "Boulevards" shall have the same meaning as "Terrace".
- (b) **Noxious Weeds; Paving.** All that part of the terrace in residential areas 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. Gravel-surfaced parking stalls may be approved in the terrace area following authorization from both the Chief of Police and Director of Public Works; the City reserves the right to rescind such authorization if deemed necessary. Basketball backstops, statuary, structures, flagpoles and other objects shall not be placed in the terrace area.
- (c) **Responsibility to Maintain.** Every owner of land in the City 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. Every owner shall keep mailboxes located on a terrace free and clear of snow.

Cross-Reference: Title 6, Chapter 4.

Sec. 6-2-9 Vaults.

All vaults and cisterns under sidewalks shall be prohibited.

Sec. 6-2-10 Requests for Improvements.

Requests or petitions by City property owners for new streets, 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. 6-2-11 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 of occupant thereof.

Sec. 6-2-12 Street Numbers.

- (a) **Buildings to Have Street Numbers.** Each principal building in the City of Prescott shall be assigned an official street number by the Building Inspector. All lots and parts of lots in the City shall be numbered in accordance with a street numbering map on file in the office of the City Clerk-Treasurer. Plats shall be numbered to conform as nearly as possible to the general scheme of numbering as outlined in this Section.
- (b) **Building Numbering Required.** All buildings in the City shall be numbering in accordance with the following:
 - (1) Numbers shall be easily seen from the street to which the building is addressed. Numbers shall preferably be block style and a minimum of three (3) inches in height unless otherwise specified by this Section. The color of the numbers shall distinctly contrast the type of covering they are placed on. The use of words to write out the required street number is not permitted.
 - (2) Multiple dwellings shall be identified with numbers, which are a minimum of five (5) inches in height, and individual apartment identification shall consist of numbers, which are no less than three (3) inches in height.
 - (3) When practical, the required numbers shall be placed as close to the main entry door as possible, but not be placed on garage doors or in similar locations on the building, which may become covered.
 - (4) Buildings exempt from this requirement include secondary buildings if there is a property number building on the same lot.
 - (5) In the event of conflict, the Building Inspector shall determine compliance.
- (c) **New Houses and Buildings.** Whenever any new house, building or structure shall be erected, in order to preserve the continuity and uniformity of numbers, the owner or his/her agent shall procure the correct number or numbers as designated, from the Building Inspector, and the owner or agent shall immediately install the numbers so assigned upon the house, building or structure in the manner provided for in this Section.
- (d) **Altering Numbers.** No person shall alter any number or retain an improper number, other than the one given under this Section.
- (e) **Noncompliance.** No building permit shall be issued for any house, building or structure until the owner has procured from the City the official number of the premises. If the owner or occupant of any building neglects for twenty (20) days to duly attach and maintain the proper numbers on the building, the City shall serve him/her a notice requiring him to properly number the same, and if he neglects to do so for ten (10) days after service, he/she shall be subject to a forfeiture as provided in Section 1-1-7. The cost of such numbers shall be paid for by the owner.

Sec. 6-2-13 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.

Sec. 6-2-14 Use and/or Lease of City Equipment.

The City of Prescott shall not permit any person to use and/or lease any City equipment for private purposes.

Sec. 6-2-15 Bidding of Public Construction Projects.

- (a) **No bid Construction.** The following classes of public work, or any part thereof, may be done directly by the City without submitting the same for bids:
- (1) Construction and repair of streets.
 - (2) Laying of sewer mains and laterals,
 - (3) Laying of water mains and laterals.
 - (4) Repair of sewer and water mains.
 - (5) All public construction of which the estimated cost is less than Five Thousand Dollars (\$5,000.00).
- (b) **Contracts, How Let.** All public construction, the estimated cost of which exceeds Ten Thousand Dollars (\$10,000.00), shall be let by contract to the lowest responsible bidder; all other public construction shall be let as the Council shall direct. If the estimated cost of any public construction exceeds Five Thousand Dollars (\$5,000.00), but is not greater than Ten Thousand Dollars (\$10,000.00), the Board of Public Works shall give a Class I notice under Chapter 985, Wis. Stats., of the proposed construction before the contract for construction is executed. The Council may also by a vote of three-fourths (3/4) of all the members-elect provide by ordinance that any class of public construction or any part thereof may be done directly by the City without submitting the same for bids.

Sec. 6-2-16 Dirt and Debris on Streets.

- (a) 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, drainage way, or public ground in the City of Prescott.

- (b) 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, drainage way or public ground in the City of Prescott shall immediately remove said materials at no cost to the City.
- (c)
 - (1) The operator of any motor vehicle which tracks, drops, or places any materials upon any street, sidewalk, alley, drainage way or public ground in the City of Prescott 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, drainage way, or public ground in the City of Prescott, 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) 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.
- (e) 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. 6-2-17 Damages to Streets and Public Property

- (a) 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, drainage way, or public ground in the City of Prescott.
- (b) The person which causes damage, injury, or destruction of any portion of any street, sidewalk, alley, drainage way, or public ground in the City of Prescott shall immediately stop and notify the Police Department that he has caused such damages and shall correct said damages within ten (10) days at no cost to the City.
- (c)
 - (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, drainage way, or public ground in the City of Prescott, 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, drainage way, or public ground in the City of Prescott, and which said operator fails to correct said damages as required in Section (c) 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) 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) 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 I- 1-7. Each day after said ten (1 0) days that the damages are not corrected, shall constitute a separate offense under this Section.

State Law References: Sec. 66.045, Wis. Stats.

Sec. 6-2-18 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. 80.32 Highways, Discontinuance of.
- (b) Sec. 80.47 Streets, Right of Abutting Owners.
- (c) Sec. 81.15 Highways, Liability for Defects.
- (d) Sec. 86.03 Trees, On and Adjacent to Highways,
- (e) Sec. 86.04 Highway Encroachments
- (f) Sec. 86.05 Highways, Duty to Restore Entrances.
- (g) Sec. 86.06 Highways, Closing to Travel.
- (h) Sec. 86.07 Highways, Depositing Rubbish or Digging In.
- (i) Sec. 86.105 Driveways, Snow Removal.
- (j) Sec. 86.19 Highway Signs, Regulation, Prohibition.
- (k) Sec. 146.13 Highways and Surface Waters, Discharging Noxious Matter Into.

Sec. 6-2-19 Newspaper Receptacles.

- (a) **Purpose.** The purpose of this Section is to safeguard the beauty of the City while ensuring the rights of the individual to receive a newspaper in readable condition.
- (b) **Newspaper Receptacle Defined.** For the purpose of this Section, a "newspaper receptacle" is any outside device designed for and/or used to receive newspapers,

advertising flyers or similar printed materials delivered by a carrier. Included in this definition are such devices which may be freestanding or attached to the sides of buildings, posts, mailbox posts and/or other outside structures.

- (c) **Restrictions.** Newspaper receptacles are prohibited in public rights-of-way, except at the edge of the roadway or street. No more than one (1) newspaper receptacle shall be placed per dwelling unit. No newspaper receptacle shall be placed on a lot other than the lot occupied by the dwelling without written permission of the lot owner. All newspaper receptacles shall be maintained in a presentable manor.
- (d) **Color.** All newspaper receptacles shall be of standard neutral color, brown or tan, as approved by the City. Permitted newspaper receptacles shall not display any advertising message including, but not limited to, the name of a newspaper or flyer, but may display an identifying mark for each publisher using the receptacle not to exceed two (2) inches by two (2) inches in size.
- (e) **Removal.** Each publisher which has placed or places a newspaper receptacle pursuant to this Section shall provide the occupier of the dwelling to which it is adjacent with a self-addressed postcard, printed in such a manner that the occupier may instruct the publisher to remove the newspaper receptacle. If the publisher receives instructions from the occupier to remove the newspaper receptacle, the publisher shall remove the newspaper receptacle within ten (10) days of the receipt of the instructions.

Cross-Reference: Section 7-10-2.

Sec. 6-2-20 Sale or Display of Merchandise Prohibited; Special Event Vending Permit.

- (a) **Street Sales Prohibited Except by Permit.** No person shall display, sell or offer to sell on any street, sidewalk, alley or other public place within the City any goods, wares, foodstuffs or anything of value or service of any kind by putting up a booth or stopping a vehicle or person on foot of in any other manner attempting to publicly sell or offer for sale any such articles, unless such person shall have first applied for and obtained a special event vending permit from the City Clerk-Treasurer. Such permit shall enable holders to conduct their business in all enumerated areas subject to the limitations of this Section. A special event vending permit shall be obtained where the vending is done by a participant in a special event and where such vending is an integral part of the event. However, where the vending is to occur in connection with a Village or area-wide promotion of community trade or festival sponsored or coordinated by an organization, the sponsoring organization shall obtain the special event vending permit as agent for its participating members.
- (b) **Procedure.**
 - (1) Application for a special event vending permit shall be filed with the City Clerk-Treasurer and shall contain such information as the City Clerk-Treasurer may require. Licenses shall be signed by the City Clerk-Treasurer and shall be conspicuously displayed at the place where such sales are being made. The permit shall set forth the **49** exact days on which and the exact location where such

business shall be carried on and shall be valid only during the dates and at the locations specified. Where a sponsoring organization is the applicant, the applicant shall provide the City Clerk Treasurer with a complete list of sponsors and participants at the time of making application.

- (2) Upon receipt of an application for a permit, the City Clerk-Treasurer shall review the information given on the application for conformity with the provisions of this Section. If all the applicable requirements are clearly and unambiguously met in the City Clerk-Treasurer's opinion, he/she shall approve the permit or approve it conditionally. If the applicable requirements are not clearly and unambiguously met in the City Clerk-Treasurer's opinion, he/she shall state the matters in doubt in writing to the applicant within three (3) days of the time of making application.
 - (3) The Common Council shall review appeals of the denial of the application by the City Clerk-Treasurer and may either deny the permit, approve the permit or approve the permit conditionally. Appeals requests shall be filed with the City Clerk-Treasurer within seven (7) days of the Clerk-Treasurer's decision.
- (c) **Conditions of License.** In addition to any other conditions imposed by the Common Council, all permittees shall fully comply with the following requirements:
- (1) ***Liability Insurance.*** To hold a valid permit, the vendor must have in force adequate liability insurance. Adequate liability insurance is liability insurance holding the City and its employees and agents harmless and to indemnify and defend the City, its employees and agents against all claims, liability, loss, damage or expense incurred by the City with adequate liability policy limits on account of any damage caused by or resulting from the activities for which the permit is granted. As evidence of the applicant's ability to perform this condition of the permit, the applicant shall furnish a Certificate of Insurance evidencing the existence of comprehensive general liability insurance (including contractual liability insurance with the City being named as an additional insured). Adequate liability limits means minimum limits of One Hundred Thousand Dollars (\$100,000.00) per occurrence for bodily injury and minimum limits of Fifty Thousand Dollars (\$50,000.00) per occurrence for property damage. The Certificate of Insurance shall provide thirty (30) days written notice to the City upon cancellation, or non-renewal or material change in the policy. Proof of insurance shall be submitted to the City Clerk-Treasurer a minimum of seven (7) days before the start of the event.
 - (2) ***Cooperation With Law Enforcement Officials.*** To protect the public health and safety, the permittee shall coordinate with the Chief of Police the location of all events under the permit. Street and sidewalk encroachments, booth locations and special parking provisions shall be submitted to the Chief of Police for his review and approval a minimum of seven (7) days before the start of the event.
 - (3) ***Clean-up.*** The permittee shall be fully responsible for all necessary clean-up associated with the licensed event.
 - (4) ***Compliance With Other Regulations.*** The permittee shall comply with all applicable state and county regulations governing health and sanitation for food-handling establishments, if applicable, and any other applicable City regulations, including, but not limited to, regulations pertaining to the issuance of Special Class "B" Fermented Malt Beverage Licenses.

Chapter 3

Driveways

6-3-1 Driveway Permit Required

6-3-2 Driveway Location, Design and Construction Requirements

Sec. 6-3-1 Driveway Permit Required.

- (a) **Purpose.** For the safety of the general public, the City of Prescott 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 shall construct or maintain a driveway across any sidewalk or curbing without first obtaining a driveway permit from the Building Inspector or Director of Public Works. 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 Building Inspector or 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 Building Inspector or 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.

- (2) All applications for permits shall be made on a form prescribed by the Building Inspector or 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 driveway 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 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, 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 successors or assigns, agrees to indemnify and hold harmless the City of Prescott, 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 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 Building Inspector or 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 both the Director of Public Works and Building Inspector 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 Building Inspector or 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 Building Inspector or 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 Building Inspector or 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) **Variations.** Any of the above requirements may be varied by the Board of Appeals 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 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 aggrieved by the refusal of the Director of Public Works or Building Permit to issue a permit for a private driveway may appeal such refusal to the Common Council within twenty (20) 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 Prescott 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.
 - (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 Standards.**
- (1) *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 of new manufacture, unless specifically excepted by the Director of Public Works or Building Inspector.
 - (2) *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

- (3) **Drainage.** The culverts shall be placed in the ditchline at elevations that will assure proper drainage.
- (4) **Endwalls.** Culverts shall be provided with a concrete or metal apron endwalls as directed by the Director of Public Works or Building Inspector.
- (5) **Backfill Material.** Material used for backfill shall be of a quantity acceptable to the Director of Public Works or Building Inspector 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.
- (6) **Erosion Control.** Erosion control measures shall be implemented as necessary to control erosion, or as directed by the Director of Public Works or Building Inspector.
- (7) **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).
- (8) **Cost.** The property owner shall install the culvert and be responsible for the cost thereof. The property owner shall keep his culverts unobstructed and clean.
- (9) **Appeal.** Persons may request a variance from the culvert requirements of this Section by filing a written appeals request with the City Clerk-Treasurer, who shall place the matter as an agenda item for the Board of Appeals next meeting. The Board of Appeals 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 Director of Public Works or Building Inspector may be asked to render an opinion on the request.

Chapter 4

Trees and Shrubs

6-4-1	Definitions
6-4-2	City Tree Board
6-4-3	Street Tree Species to Be Planted
6-4-4	Spacing
6-4-5	Distance from Curb and Sidewalk
6-4-6	Distance from Street Corners and Fire Hydrants
6-4-7	Utilities
6-4-8	Public Tree Care
6-4-9	Tree Topping
6-4-10	Pruning; Corner Clearance
6-4-11	Dead or Diseased Tree Removal on Private Property
6-4-12	Removal of Stumps
6-4-13	Interference With City Tree Board
6-4-14	Review by Council

Sec. 6-4-1 Definitions.

- (a) **Street Trees.** "Street trees" are herein defined as trees, shrubs, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the City.
- (b) **Park Trees.** "Park trees" are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the City, or which the public has free access as a park.

Sec. 6-4-2 City Tree Board.

- (a) **Creation.** There is hereby created and established a City Tree Board for the City of Prescott which shall consist of five (5) members, citizens and residents of this City, who shall be appointed by the Mayor with the approval of the Council.
- (b) **Term of Office.** The term of the five (5) persons to be appointed by the Mayor shall be three (3) years except that the term of two (2) of the members appointed to the first board shall be only one (1) year and the term of two (2) members of the first board shall be for

two (2) years. In the event that a vacancy shall occur during the term of any member@ successor shall be appointed for the unexpired portion of the term.

- (c) **Compensation.** Members of the Board shall serve without compensation.
- (d) **Duties and Responsibilities.** It shall be the responsibility of the Tree Board to study, investigate, council and develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan will be presented annually to the Common Council and upon their acceptance and approval shall constitute the official comprehensive City tree plan for the City of Prescott, Wisconsin. The Board, when requested by the Council, shall consider, investigate, make finding, report and recommend upon any special matter of question coming within the scope of its work.
- (e) **Operation.** The Tree Board shall choose its own officers, make its own rules and regulations, subject to approval of the Common Council, and keep a journal of its proceedings. A majority of members shall be a quorum for the transaction of business.

Sec. 6-4-3 Street Tree Species to be planted.

No species other than those listed in the Prescott Urban Forestry Improvement Project.

Sec. 6-4-4 Spacing.

The spacing of Street Trees will be in accordance with the three (3) species size classes referred to in Section 6-4-3, and no trees may be planted closer together than the following: Small Trees, thirty (30) feet; Medium Trees, forty (40) feet; and Large Trees, fifty (50) feet; except in special plantings designed or approved by a landscape architect.

Sec. 6-4-5 Distance from Curb and Sidewalk.

The distance trees may be planted from curbs or curb lines and sidewalks will be in accordance with the three (3) species size classes referred to in Section 6-4-3, and no trees may be planted closer to any curb or sidewalk than the following: Small trees, two (2) feet; medium trees, three (3) feet; and large trees, four (4) feet.

Sec. 6-4-6 Distance from Street Corners and Fire Hydrants.

No street tree shall be planted closer than thirty-five (35) feet of any street corner, measured from the point of nearest intersecting curbs or curblines. No street tree shall be planted closer than ten (10) feet of any hydrant.

Sec. 6-4-7 Utilities.

No trees on public city streets or boulevard other than those species referred to as small trees in Section 6-4-3 may be planted under or within ten (10) lateral feet of any overhead utility wire, or within ten (10) lateral feet of any underground water line, sewer line, transmission line or other utility.

Sec. 6-4-8 Public Tree Care.

- (a) The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs with the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds.
- (b) The City Tree Board may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pest. This Section does not prohibit the planting of street trees by adjacent property owners providing that the selection and location of said trees in accordance with Sections 6-4-3 through 6-4-7.

Sec. 6-4-9 Tree Topping.

It shall be unlawful as a normal practice for any person, firm, or City department to top any street tree, park tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this Chapter at the determination of the City Tree Board.

Sec. 6-4-10 Pruning; Corner Clearance.

Every owner of any tree overhanging any street or right-of-way within the City shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight (8) feet above the surface of the street or sidewalk, Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The City shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a streetlight or interferes with the visibility of any traffic control device or sign.

Cross-Reference: Section 13-1-120.

Sec. 6-4-11 Dead or Diseased Tree Removal on Private Property.

The City shall have the right to cause the removal of any dead or diseased trees on private property within the City, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the City. The City Tree Board will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within sixty (60) days after the date of service of notice. In the event failure of owners to comply with such provisions, the City shall have the authority to remove such trees and charge the cost of removal on the owners property tax notice.

Sec. 6-4-12 Removal of Stumps.

All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

Sec. 6-4-13 Interference with City Tree Board.

It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or removing street or park trees within the City without first applying for and procuring a license. The license fee shall be, Twenty-five Dollars (\$25.00) annually in advance; provided, however, that no license shall be required of any public service company or City employee doing such work in the pursuit of their public service endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of Fifty Thousand Dollars (\$50,000) for bodily injury and One Hundred Thousand Dollars (\$100,000) property damage indemnifying the City of any person injured or damaged resulting from the pursuit of such endeavors as herein described.

Sec. 6-4-14 Review by Council.

The Common Council shall have the right to review the conduct, acts and decisions of the City Tree Board. Any person may appeal from any ruling or order the City Tree Board to Common Council who may hear the matter and make final decision.