

TITLE 6 Public Works – Village of Gays Mills

TITLE 6

Public Works

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CHAPTER 1

Grades; Official Map

6-1-1	Establishment of Grades
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SEC. 6-1-1 ESTABLISHMENT OF GRADES.

- (a) **Grades to be Established.** The grade of all streets, alleys and sidewalks shall be established by the Village Board. In all cases where the grade of sidewalks shall not have been specifically set by ordinance, the sidewalks shall be laid to the established grade of the street. All such grades heretofore established are hereby confirmed.
- (b) **New Sidewalk Grade.** 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 may be considered a part of the improvement, may be let by contract with the other work of improving such street, and the expense thereof shall be provided for by the Village Board. Before such construction is commenced by the owners of the abutting lots or parcels of land, the Village Board shall, upon application by the respective owners for a sidewalk grade, cause such sidewalk grade to be established.

State Law Reference: Secs. 61.36, 61.47, and 66.615, *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 Village of Gays Mills by any means whatsoever unless authorized or instructed to do so by the Village Board or Director of Public Works.

CHAPTER 2

Streets and Sidewalks

6-2-1	Removal of Rubbish and Dirt From Sidewalks
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SEC. 6-2-1 REMOVAL OF RUBBISH AND DIRT FROM SIDEWALKS.

No owner or occupant shall allow the sidewalk abutting on his/her premises to be littered with rubbish or dirt. If such owner or occupant shall refuse or fail to remove any such rubbish or dirt when notified to do so by the Village Board or its designee, the Village Board or its designee may cause the same to be done and report the cost thereof to the Village Clerk-Treasurer who shall spread the cost on the tax roll as a special tax against the premises, pursuant to Section 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; COST OF CURB AND GUTTER.

- (a) **Board May Order.** The Village Board may determine that sidewalks or curb and gutter may be constructed, laid, rebuilt or repaired along or upon any public street, right-of-way or highway within the Village. The Village Board may determine or change the width or grade of any street or sidewalk.
- (b) **Cost of Sidewalks.**
 - (1) New Sidewalks. New sidewalks constructed in existing areas of the Village shall be paid for in whole or in part by adjacent property owners when so directed by resolution of the Village Board.
 - (2) Applicable Law/Sidewalk Repair and Reconstruction.
 - a. Whenever the Village Board shall by resolution determine that a sidewalk be laid, rebuilt, repaired, lowered, or raised along or upon any public street, alley, or highway within the Village, it shall proceed according to Section 66.615 or 66.60, *Wis. Stats.* The Village Board may by resolution determine that a certain portion of such costs be paid by the Village and the balance by the abutting property owner pursuant to Section 66.615(6), *Wis. Stats.*

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- (3) Assessment Formula/Lien. The property owners' special assessment shall be paid:
- a. By one (1) payment within ninety (90) days of completion in the case of repair to a sidewalk, which shall become a lien as of the date of delinquency and shall automatically be extended on the current or next tax roll as a delinquent tax against the property and all proceedings in relation to the collection, return and sale of property for delinquent real estate taxes shall apply to such charge.
 - b. In all other cases, by one (1) payment within ninety (90) days of completion or by three (3) installments paid as a special tax on said property, one-third (1/3) thereof to be entered into the tax roll in each of the three (3) following years which shall be payable as other real estate taxes thereon are paid, plus interest; provided, however, that this installment option is only available if each installment is of an amount of One Hundred Dollars (\$100.00) or greater. Said special assessment shall remain a lien on the premises until paid in full and shall be entered on the tax roll as a special tax as above provided and failure to pay when due shall result in the whole balance being immediately due and payable and collectible as a delinquent tax against the property and that all proceedings in relation to the collection, return and sale of the property for delinquent real estate taxes shall apply to such special assessment.
- (c) **Minor Repairs.** If the cost of repairs of any sidewalk in front of any lot or parcel of land does not exceed the sum of One Hundred Dollars (\$100.00) such repairs may be made at the direction of the Director of Public Works if required by the Village Board without notice or letting the work by contract, and the cost thereof may be charged to the owner of such lot or parcel of land in the same manner as provided in Section 66.615, *Wis. Stats.*
- (d) **Repair or Replacement of Defective Sidewalks.** The Village Board may determine that any sidewalk which is unsafe, defective, or insufficient be repaired or removed and replaced.

State Law Reference: Secs. 66.615 and 66.60, *Wis. Stats.*

SEC. 6-2-3 PRIVILEGES IN STREETS.

- (a) **Privilege.** Privilege for an obstruction or excavation beyond the lot line, or within a highway in the Village other than by general ordinance affecting the whole public, shall be granted only as provided in this Section.
- (b) **Application.** Application therefor shall be made to the Village Board and the privilege shall be granted only on condition that by its acceptance the applicant shall become primarily liable for damages to person or property by reason of the granting of the privilege, be obligated to remove the same upon ten (10) days' notice by the State or the Village and waive right to contest in any manner the validity of this Section or the amount of compensation charged and that the applicant file such bond as the Village requires, not exceeding Ten Thousand Dollars (\$10,000) running to the Village and such third parties as may be injured, to secure the performance of these conditions. But if there is no established lot line and the application is accompanied by a blue print, the Village Board may make such conditions as they deem advisable.
- (c) **Compensation.** Compensation for the special privilege shall be paid into the general fund and shall be fixed by the Village President.
- (d) **Damages.** The holder of such special privilege shall be entitled to no damages for removal of the obstruction or excavation, and if the holder shall not remove the same upon due notice, it shall be removed at the holder's expense.

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- (e) **Third Parties.** Third parties whose rights are interfered with by the granting of such privilege shall have right of action against the holder of the special privilege only.
- (f) **Exception for Certain Entities.** Subsections (a) to (e) do not apply to public service corporations, or to cooperative associations organized under Chapter 185, *Wis. Stats.*, to render or furnish telecommunications service, gas, light, heat or power, but such corporations shall secure permit from the proper official for temporary obstructions or excavation in a highway and shall be liable for all injuries to person or property thereby.
- (g) **Other Exception.** This Section does not apply to such obstruction or excavation for not longer than three (3) months, and for which permit has been granted by the proper official.

SEC. 6-2-4 OBSTRUCTIONS AND ENCROACHMENTS.

- (a) **Obstructions and Encroachments Prohibited.** No person shall encroach upon or in any way obstruct or encumber any street, alley, sidewalk, public grounds or land dedicated to public use, or any part thereof, or permit such encroachment or encumbrance to be placed or remain on any public way adjoining the premises of which he/she is the owner or occupant, except as provided in Subsection (b). All fences, trees, and shrubs shall have a set back of at least one (1) foot from a sidewalk and if not shall be an obstruction under this Section.
- (b) **Exception.** The prohibition of Subsection (a) shall not apply to temporary encroachments or obstructions authorized by permit under Section 6-2-3 of this Chapter pursuant to Section 66.045, *Wis. Stats.*
- (c) **Removal by Village for Sidewalk Obstructions and Encroachments.** In addition to any other penalty imposed, if any Village enforcement official determines that a sidewalk is unlawfully obstructed in violation of this Section, he/she shall issue a written notice to the owner or occupant of the premises which adjoins the obstructed sidewalk directing that the obstruction be removed within twenty-four (24) hours.
- (d) **Removal by Village for Obstruction and Encroachments Located in the Village Streets, Alleys, Public Grounds or Lands Dedicated for Public Use.** In addition to any other penalty imposed, if any Village enforcement official determines that a Village street, alley, public grounds or land dedicated for public use is obstructed or encumbered, he/she shall issue a written notice to the property owner of the premises which adjoin the obstructed public area directing that the obstruction be removed within twenty-four (24) hours.
- (e) **Failure to Remove Obstruction.**
 - (1) If the owner or occupant fails to remove the obstruction within the time period established by Subsection (c) or (d) respectively, any Village enforcement official shall cause the removal of the obstruction, keeping an account of the expense of the abatement, and such expenses shall be charged to and paid by such property owner. Notice of the bill for abatement of the obstruction shall be mailed to the owner of the premises and shall be payable within ten (10) calendar days from receipt thereof. Within sixty (60) days after such costs and expenses are incurred and remain unpaid, the 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 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 Village expense on the tax rolls for unpaid bills for abating the obstruction as provided for in this Section.

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SEC. 6-2-5 SNOW AND ICE REMOVAL.

(a) **Removal From Sidewalks.**

- (1) The owner or occupant of an occupied or unoccupied lot abutting on a street shall keep the sidewalk abutting thereon free from snow, ice, dirt or rubbish of any kind. Any snow falling between 6:00 p.m. and 7:00 a.m. shall be removed before the following 6:00 p.m. and all snow falling at other times shall be removed within twelve (12) hours after it stops snowing. If the owner or occupant fails to remove the snow, ice or dirt or rubbish as provided herein, the same shall be removed by the Village and the costs assessed against the property, to be entered in the tax roll and collected as other taxes are collected, such charges to be One Dollar (\$1.00) per linear foot.
 - (2) Prior to removing snow or ice from a sidewalk as provided herein, Village officers or employees shall attempt to notify any property owner of the premises adjacent to the sidewalk that the snow is to be removed and a charge assessed therefor, giving any such available owner the prior opportunity to immediately remove said snow and ice, except as provided otherwise in this Subsection. If the property owner has at any time been assessed for snow or ice removal during that winter season, then Village officials or employees may, but need not, contact said property owner. Any property owner not available upon premises adjacent to the sidewalk from which snow and ice is to be removed shall not be entitled to notice unless said owner has provided the Village with written notification of a place where he or she, or another person designated as his or her agent, might be located by local telephone call, in which case Village officials shall attempt to reach said person or agent prior to removal of snow and ice. Failure of notice to any owner shall not, in any event, be grounds for relief from the assessment for removal of snow and ice accumulated in violation hereof.
 - (3) Sidewalks are to be kept clear of snow and ice to a minimum of four (4) feet or total width of sidewalk in width. In the event that ice has formed on any sidewalk in such a manner that it cannot be removed, the owner, occupant or person in charge of the parcel or lot which fronts upon or adjoins said sidewalk shall keep the sidewalk sprinkled with sand, salt and/or other ice melting compound to permit safe travel by pedestrians.
- (b) **Snow and Ice Not to Encroach.** No person shall push, shove or in any way deposit any snow or ice onto any public streets, alley, sidewalk or public lands dedicated to public use.
- (c) **Enforcement.** All sworn police officers and other designated Village officials and employees are hereby authorized and directed to enforce the provisions of this Section.
- (d) **Continued Violations.** Each twenty-four (24) hour period where a violation occurs shall constitute a separate offense under this Section for enforcement purposes. Repeated violations or subsequent additional accumulations of snow and/or ice shall not nullify any pending notice issued under this Section.
- (e) **Abatement After Notice.** Failure of the owner, occupant or person in charge of any parcel or lot to cause the removal of snow and/or ice within the time established under Subsection (a) shall result in a citation being issued to violators and/or the Village causing the removal of said snow and/or ice and billing the cost thereof pursuant to Subsection (f) below.
- (f) **Expense.** An account of the expenses incurred by the Village to abate the snow and/or ice hazard shall be kept and such expenses shall be charged to and paid by the parcel or lot owner. Said expenses shall not be less than Twenty Dollars (\$20.00) nor more than the actual cost of wages, equipment, and material required to remove said snow or ice, whichever is greater. Notice of the bill for removal of snow and/or ice shall be mailed to the last-known address of the owner of the parcel or lot and shall be payable within ten (10) calendar days from the receipt thereof. Within thirty (30) days after such costs and expenses are incurred and remain unpaid, the Clerk-Treasurer shall enter those charges onto the tax roll as a special tax as provided by Section 66.615(5), *Wis. Stats.*

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- (g) **Penalty.** In addition to the provisions set forth in this Section, any person, firm or corporation which violates the provisions of this Section shall be subject to a penalty as provided in Section 1-1-6 of this Code of Ordinances.

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

SEC. 6-2-6 TERRACE AREAS.

- (a) **Definition.** The definition of “terrace” shall be as defined in Section 6-4-2(e).
- (b) **Noxious Weeds; Paving.** All that part of a residential terrace not covered by a sidewalk shall be kept free and clear of all noxious weeds and shall not be paved, surfaced or covered with any material which shall prevent the growth of plants and shall be maintained as a lawn, except in areas specifically approved by the Village Board or its designee. Basketball backstops, statuary, structures, flag poles, shrubs, bushes, and other objects shall not be placed in the terrace area. The Village Forester must approve the planting of any trees and/or flowers in the terrace area.
- (c) **Responsibility to Maintain.** Every owner of land in the Village 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. 6-2-7 REQUESTS FOR IMPROVEMENTS.

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

SEC. 6-2-8 UNLAWFUL DUMPING ON STREETS.

It shall be unlawful for any person to deposit or cause to be deposited, dump, sort, scatter or leave any rubbish, stone, wire, earth, ashes, cinders, sawdust, hay, glass, manure, filth, paper, snow, ice, dirt, grass, leaves, construction waste, garbage or other offensive or noxious material in any public street, sidewalk, alley, or upon any public property or upon any property of another, without the express permission of the owner or occupant thereof. Such unlawful material or obstruction may be removed by the Village and the cost thereof billed to the violator pursuant to Section 66.60(16), *Wis. Stats.*

SEC. 6-2-9 OBSTRUCTION OF PUBLIC DITCHES.

No person shall in any manner obstruct or cause to be obstructed the free passage of water in any public gutter, ditch, culvert, swale or drain or place or cause to be placed any rubbish, dirt, sand, gravel or any other matter or thing so that the same is likely to be carried by the elements into any public gutter, ditch, culvert, swale or drain. Such unlawful material or obstruction may be removed by the Village and the cost thereof billed to the violator pursuant to Section 66.60(16), *Wis. Stats.*

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SEC. 6-2-10 STREET NUMBERS.

- (a) **Buildings to Have Street Numbers.** Each principal building in the Village shall be assigned to an official street number or emergency number by the Director of Public Works.
- (b) **Street Numbers to Be Displayed.** The owner, occupant or agent in charge of the premises shall cause to be affixed and to be maintained when so affixed to each principal building controlled by him/her the official street number assigned to that building as provided in Subsection (a) hereof. The physical numbers provided herein shall be black on white and be not less than two and one-half (2½) inches high on a background of not less than three (3) inches. Each required number shall be affixed on the particular building in such a location that it may be easily and readily seen by a person of ordinary eyesight on the public street or highway upon which the building abuts.
- (c) **Noncompliance.** 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 Village shall serve him a notice requiring him to properly number the same, and if he/she neglects to do so for ten (10) days after service, he/she shall be subject to a forfeiture as provided in Section 1-1-6.

SEC. 6-2-11 USE AND/OR LEASE OF VILLAGE EQUIPMENT.

The Village of Gays Mills shall not permit any person to use and/or lease any Village equipment for private purposes.

SEC. 6-2-12 DIRT AND DEBRIS ON STREETS.

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

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- (e) **Charges/Penalty.** 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 1-1-6. Each day that said materials are not removed shall constitute a separate offense under this Section.

SEC. 6-2-13 DAMAGES TO STREETS AND PUBLIC PROPERTY.

- (a) **Public Interest.** In the interests of public safety, health, general welfare, community appearance, and efficiency of operation, it shall be unlawful in any way to cause damage, injury, or destruction to any portion or any fixture of any street, sidewalk, alley, drainageway, or public ground in the Village of Gays Mills.
- (b) **Notification/Correction.** The person which causes damage, injury, or destruction of any portion of any street, sidewalk, alley, drainageway, or public ground in the Village of Gays Mills shall immediately stop and notify the Police Department or Director of Public Works that he has caused such damages and shall correct said damages within ten (10) days at no cost to the Village.
- (c) **Operator of Vehicle.**
 - (1) In the event the operator of any motor vehicle or equipment which causes damage, injury, or destruction of any portion of any street, sidewalk, alley, drainageway, or public ground in the Village of Gays Mills, fails to report such damage, it shall be considered a violation of this Section.
 - (2) In the event said operator is performing work under the control or authority of the owner, occupant, or person in charge of the work on private premises, and said operator causes the damage of any portion or fixture of any street, sidewalk, alley, drainageway, or public ground in the Village of Gays Mills, and which said operator fails to correct said damages as required in Subsection (c)(1) above, the owner, occupant, or person in charge of said work on said private premises, shall correct said damages at no cost to the Village.
- (d) **Village Correction.** In the event the damages are not corrected within ten (10) days, the Village 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) **Charges/Penalty.** In addition to the costs to correct damages, said operator, or said owner, occupant, or person in charge of said property shall be subject to a penalty per occurrence as prescribed in Section 1-1-6. Each day after said ten (10) days that the damages are not corrected shall constitute a separate offense under this Section.

SEC. 6-2-14 GRASS CLIPPINGS.

All grass clippings from lawnmowing or other sources shall not be allowed to blow upon or accumulate upon any public street or be dumped on a public right-of-way in such a manner in the Village of Gays Mills where such grass clippings could wash into any storm sewer drainage inlet.

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 Village shall determine the location, size, construction and number of access points to public roadways within the Village limits. It is the Village’s intent to provide safe access to properties abutting public roadways suitable for the property to be developed to its highest and best use, provided that access is not deficient or dangerous to the general public.
- (b) **Permit Required to Construct, Reconstruct, Alter or Enlarge.** No person, firm or corporation shall construct, reconstruct, alter or enlarge any private driveway within the limits of the dedicated portion of any public street under the control and jurisdiction of the Village of Gays Mills without first obtaining a driveway permit therefor as provided by this Chapter. A driveway permit is not required when a new driveway is to be constructed in conjunction with the construction of a new principal structure; the driveway being included in the building permit process in such cases.
- (c) **Application.** Application for such permit shall be made to the Clerk-Treasurer on a form provided by the Village 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. There is a Ten Dollar (\$10.00) fee for a driveway permit. Upon receipt of the application and the fee if required, unless the proposed private driveway is a part of construction for a building or other structure for which a building permit has been applied for, in which case no additional fee is required, the Director of Public Works shall approve such application if the proposed driveway complies with the terms and conditions of this and any other applicable Village ordinance.
- (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 Village street, or for any other purpose.
 - (2) The Village, notwithstanding the construction of such driveway, reserves the right to make any changes, additions, repairs or relocations within the dedicated portion of the Village 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 Village of Gays Mills, its officials, officers, agents or employees, against any claim or any cause of action for personal injury or property damage sustained by reason of the exercise of such permit.
 - (4) The Village does not assume any responsibility for the removal or clearance of snow, ice or sleet or the opening of any windrows of such material upon such portion of such driveway within the dedicated portion of the Village street.

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 Village Board, and driveways shall in all cases be placed wherever possible as not to interfere with utilities in place.
 - (2) **Number.** The number of driveways to serve an individual property fronting on a street shall be one (1), except where deemed necessary and feasible by the Village Board 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 rural type 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.
 - (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 apron from the street and/or curb to the outer edge of the adjacent sidewalk (or where a sidewalk would typically be constructed) shall be paved. 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.
 - (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 Village 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 Village Board.
 - (7) **Relocation of Utilities.** Any costs of relocating public utilities shall be the responsibility of the property owner with approval of the Village Board or authorized committee thereof necessary before any utility may be relocated and the driveway installed.

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- (8) Construction Across Sidewalks. All driveway entrances and approaches which are constructed across sidewalks shall be of concrete constructed 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) Variances. Any of the above requirements may be varied by the Village Board 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. No part of a private driveway located within the dedicated area of a public street shall, except as hereinafter provided, have a width greater than thirty (30) feet measured at right angles to the center line of said driveway, except as increased by permissible radii. In instances where the 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 Village Board 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 degrees.
 - (3) Island Areas. Where the public sidewalk is adjacent to the curb, an island of a minimum length of six (6) feet measured along the curb line shall be placed between each entrance to a Village street. The curb shall be left intact for the length of this island. Where the public sidewalk is remote from the curb, an island of a minimum length of ten (10) feet measured along the right-of-way line shall be maintained along each entrance to the Village street. All flares shall be tangent to the curb line. A curb length of not less than three (3) feet shall be left undisturbed adjacent to each property line to serve as an island area in the event an adjoining property owner applies for a driveway permit to serve his property.
- (c) **Special Requirements for Residential Driveways.** The following regulations are applicable to driveways serving residential property:
 - (1) Width of Driveways. Openings for vehicular ingress and egress shall be at least ten (10) feet wide at the property line for residential properties, but shall not exceed twenty-four (24) feet at the property line and thirty (30) feet at the curb opening.
 - (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 to issue a permit for a private driveway may appeal such refusal to the Village Board 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 Village of Gays Mills 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 nonconformance with this Chapter.
 - (2) No driveway shall be closer than ten (10) feet to the extended street line at an intersection. At street intersections a driveway shall not provide direct ingress or egress to or from the street intersection area and shall not occupy areas of the roadway deemed necessary by the Village for effective traffic control or for highway signs or signals.
 - (3) The grade of that portion of any private driveway or pedestrian path located within the limits of any public road, highway or street shall be such as shall meet the grade of the existing public roadway at its edge and not cause an obstruction to the maintenance or clearing of such public roadway.

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- (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.** Culverts shall be installed prior to construction work being commenced on the property served. No pipe smaller than twelve (12) inches in diameter (or equivalent elliptical or arch pipe) will be allowed. All culverts shall be constructed of galvanized steel or reinforced concrete, and shall be made of new manufacture, unless specifically accepted by the Clerk-Treasurer or Village Engineer.

CHAPTER 4

Trees and Shrubs

6-4-1	Statement of Policy and Applicability of Chapter
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SEC. 6-4-1 STATEMENT OF POLICY AND APPLICABILITY OF CHAPTER.

- (a) **Intent and Purpose.** It is the policy of the Village of Gays Mills to regulate and establish policy for the control of planting, removal, maintenance and protection of trees and shrubs in or upon all public areas and terrace areas of the Village to eliminate and guard against dangerous conditions which may result in injury to persons using the streets, alleys, sidewalks or other public areas; to promote and enhance the beauty and general welfare of the Village; to prohibit the undesirable and unsafe planting, removal, treatment and maintenance of trees and shrubs located in public areas; and to guard all trees and shrubs both public and private within the Village against the spread of disease, insects or pests.
- (b) **Application.** The provisions of this Chapter shall apply to trees and shrubs growing or hereafter planted in or upon public areas and terrace areas and also to all trees and shrubs growing or to be planted in or upon any private premises which shall threaten the life, health, safety or welfare of the public or of any public areas.

SEC. 6-4-2 DEFINITIONS.

Whenever the following words or terms are used in this Chapter, they shall be construed to have the following meanings:

- (a) **Person.** “Person” shall mean person, firm, association or corporation.
- (b) **Public Areas.** “Public Areas” includes all public parks and other lands owned, controlled or leased by the Village except the terrace areas.
- (c) **Public Trees and Shrubs.** “Public Trees and Shrubs” means all trees and shrubs located or to be planted in or upon public areas.
- (d) **Public Nuisance.** “Public Nuisance” means any tree or shrub or part thereof which, by reason of its condition, interferes with the use of any public area, is infected with a plant disease, is infested with injurious insects or pests, is injurious to public improvements, or endangers the life, health, safety or welfare of persons or property.
- (e) **Boulevard or Terrace Areas.** “Boulevard or Terrace Areas” means the land between the normal location of the street curbing and sidewalk. Where there is no sidewalk, the area four (4) feet from the curb line shall be deemed to be a boulevard area for the purpose of this Chapter. The area four (4) feet from the curb shall also be deemed boulevard area under this Chapter where there is only a sidewalk within

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that area. “Boulevard” shall have the same meaning as “terrace” in this Chapter.

- (f) **Major Alteration.** Trimming a tree beyond necessary trimming to comply with this Chapter.
- (g) **Shrubs.** “Shrubs” shall mean any woody vegetation or a woody plant having multiple stems and bearing foliage from the ground up.
- (h) **Tree.** “Tree” shall mean any woody plant, normally having one stem or trunk bearing its foliage or crown well above ground level to heights of sixteen feet or more.
- (i) **Evergreen Tree.** “Evergreen Tree” shall mean any woody plant normally having one stem or trunk and bearing foliage in the form of needles and crowns which extend from ground level throughout its entire height.
- (j) **Forester.** Person or Village employee designated by the Village Board as authorized to carry out provisions of this Chapter.

SEC. 6-4-3 VILLAGE FORESTER DESIGNATION AND AUTHORITY TO ENTER PRIVATE PREMISES.

- (a) **Designation/Annual Appointment.** The Village Board may designate a municipal employee or citizen to perform the duties of Forester under Chapter 27, *Wis. Stats.*, and may authorize such Forester to perform the duties and exercise the powers imposed on the Village Board by this Chapter. The Village Forester shall annually be appointed by the Village President, subject to Board confirmation, at the Board’s organizational meetings.
- (b) **Entry on Private Premises.** The Village Forester or his authorized representative may enter upon private premises at all reasonable times for the purpose of examining any tree or shrub located upon or over such premises and carrying out any of the provisions of this Chapter.

SEC. 6-4-4 PLANTING OF TREES AND SHRUBS.

- (a) **Planting Restricted.** No person shall hereafter plant any tree, shrubs, or flowers in or upon any public street, street right-of-way, parkway, terrace or other public area within the Village of Gays Mills unless he shall first secure written permission from the Village. First the adjacent property owner will request plantings with the Village Forester, who then will make recommendations to the Village Board for final approval. Village shall not approve any such planting if, in opinion, said tree, shrub, or flowers will constitute a public nuisance or a nuisance to adjoining property owners or interfere with the safety of the public or the operation of any sewer or water system. The Village Forester shall cause the removal of any tree planted in violation of this Subsection.
- (b) **Planting.**
 - (1) Trees and shrubs may not be planted in the terrace closer than:
 - a. Twenty (20) feet to a utility or street lighting pole.
 - b. Fifteen (15) feet to a driveway or alley.
 - c. Six (6) feet to a fire hydrant, water stop box or gas shut-off. If possible, allow more distance than six (6) feet.
 - d. Twenty-five (25) feet to the intersection of two (2) streets from either corner measured on the property line.
 - e. Twenty-five (25) feet to another tree; provided, however, that if the other tree is an elm or other species which is damaged, injured or diseased and likely to be removed in the future, then a thirty-five (35) foot distance to the next nearest healthy tree will prevail.

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- (2) The property owner has the responsibility to locate underground utilities before digging.
- (3) Evergreen trees shall not be planted in a terrace area.

SEC. 6-4-5 TRIMMING.

- (a) **Duties.** Any person growing a tree, plant or shrub on any private property abutting on public streets or public places shall:
 - (1) Trim them so as not to be a hazard to persons using the streets or to interfere with the proper lighting of the streets.
 - (2) Treat or remove any tree, plant or shrub which the Village Forester shall determine is diseased or insect-ridden or a hazard to persons using the streets.
 - (3) Remove and refrain from planting any tree, plant or shrub designated by the State Department of Agriculture and published in its regulations to be a host or carrier of a dangerous plant disease or insect pest.
- (b) **Fourteen Feet Limitation.** Trees and shrubs standing in or upon any boulevard, public area or upon any private premises adjacent to any public right-of-way or public areas shall be kept trimmed so that the lowest branches projecting over the public street or alley provide a clearance of not less than fourteen (14) feet. The Village Forester may waive the provisions of this Section for newly planted trees if he determines that they do not interfere with public travel, obstruct the light of any street light or endanger public safety.
- (c) **Pruning.** The necessity of the pruning may be determined by the Village Forester.
- (d) **Seven Feet Limitation.** Clearance from sidewalk to lower branches shall not be less than seven (7) feet. All trees standing upon private property in the Village, the branches of which extend over the line of the street, shall be trimmed so that no branch shall grow or hang over the line of the sidewalk lower than seven (7) feet above the level of the sidewalk. No tree shall be permitted to grow in such a manner as to obstruct the proper diffusion of light from any public lamp.
- (e) **Major Alteration.** Trimming or pruning of more than two-thirds (2/3) of the crown shall be considered to be a major alteration and shall require authorization from the Village Forester.

SEC. 6-4-6 TREES AND SHRUBBERY OBSTRUCTING VIEW AT INTERSECTION OR VIEW OF TRAFFIC SIGNS.

- (a) **View Obstruction.** Notwithstanding any other provision of this Chapter, no person shall maintain, plant or permit to remain on any private or public premises situated at the intersection of two (2) or more streets or alleys in the Village any hedge, tree, shrub or other growth which may obstruct the view of the operator of any motor vehicle or pedestrian approaching such intersection.
- (b) **Sign/Driveway Approach Obstruction.** It is unlawful for any person to plant, cause to grow, allow to grow or maintain any trees, bushes, shrubbery or vegetation of any kind which is an obstruction to the clear and complete vision of any traffic sign or driveway approach to a street in the Village. It shall be the duty of every owner of such tree, bush, shrubbery or vegetation to remove such obstruction.
- (c) **Notice.** Any shrub, tree or other plant which obstructs the view at an intersection or the view of a traffic sign shall be deemed to be dangerous to public travel and the Village Forester may order, by written notice, which notice shall comply with Section 27.09, *Wis. Stats.*, in the case of removal of a living shade tree on private property, to the owner or occupant of any private place or premises on which there stands a tree or shrub which unreasonably interferes with or encroaches upon the street or sidewalk, to take such steps as are necessary to remove such interference. If such owner or occupant fails, within ten (10) days of receipt of notice, or within two (2) weeks in the case of removal of a living shade tree on private property pursuant to Section 27.09(4), *Wis. Stats.*, to take such necessary steps, the Village Forester and/or other Village employees shall order the Village employees to remove the interference;

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provided, however, that in the case of removal of a living shade tree on private property, the Village

Forester shall duly act on the direction of the Village Board after hearing pursuant to Section 27.09(4), *Wis. Stats.* The cost of removing the interference shall be levied and collected as a special tax upon the property upon which or in front of which such tree or shrub stands.

- (d) **Forfeiture.** Any person who is an owner or occupant or firm or corporation failing to obey the written notice of the Village Forester as specified in Subsection (c) above shall, upon conviction thereof, be subject to a forfeiture as established in Section 1-1-6 of this Code of Ordinances.

SEC. 6-4-7 PROHIBITED ACTS.

- (a) **Damage to Public Trees.** No person shall, without the consent of the owner in the case of a private tree or shrub, or without written permits from the Village Forester in the case of a terrace-area tree, public tree or shrub, perform or cause to be performed by others any of the following acts:
- (1) Secure, fasten or run any rope, wire sign, unprotected electrical installation or other device or material to, around or through a tree or shrub.
 - (2) Break, injure, mutilate, deface, kill or destroy any tree or shrub or permit any fire to burn where it will injure any tree or shrub.
 - (3) Permit any toxic chemical, gas, smoke, oil or other injurious substance to seep, drain or be emptied upon or about any tree or shrub or place cement or other solid substance around the base of the same.
 - (4) Remove any guard, stake or other device or material intended for the protection of a public tree or shrub, or close or obstruct any open space about the base of a public tree or shrub designed to permit access of air, water and fertilizer.
 - (5) Attach any sign, poster, notice or other object on any tree, or fasten any guy wire, cable, rope, nails, screws or other device to any tree; except that the Village may tie temporary signs to trees when necessary in conjunction with street improvement work, tree maintenance work or parades.
 - (6) Cause or encourage any fire or burning near or around any tree.
- (b) **Excavations.** All trees on any parkway or other publicly owned property near any excavation or construction of any building structure or street work shall be sufficiently guarded and protected by those responsible for such work as to prevent any injury to said trees. No person shall excavate any ditches, tunnels or trenches, or install pavement within a radius of ten (10) feet from any public tree without a permit from the Village Forester.
- (c) **Interference With Village Forester.** No person shall:
- (1) Interfere with or prevent any acts of the Village Forester or his/her agents or employees while they are engaged in the performance of duties imposed by this Chapter.
 - (2) Refuse to permit the Village Forester or his duly authorized representative to enter upon his premises at reasonable times to exercise the duties imposed by this Chapter.
- (d) **Refusal to Abate Nuisance.** No person shall permit any public nuisance to remain on any premises owned or controlled by him when ordered by the Village Forester to abate such nuisance.

SEC. 6-4-8 APPEAL FROM DETERMINATIONS OR ORDERS.

Any person who receives a determination or order under this Chapter from the Village Forester and objects to all or any part thereof shall have the right to appeal such determination or order, subject to the provisions of Title 4 of this Code of Ordinances and Chapter 68, *Wis. Stats.*, to the Village Board within thirty (30) days of notice to such person of such determination and the Village Board shall hear such appeal within fifteen (15) days of receipt of written notice of the appeal. After such hearing, the Village Board may reverse, affirm or

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modify the order or determination appealed from and the grounds for its decision shall be stated in writing. The Village Board shall, by letter, notify the party appealing the order or determination of its decision within twenty (20) days after the hearing has been conducted and the filing of briefs, if any. The Board shall file its written decision with the Village Clerk-Treasurer.

SEC. 6-4-9 ADOPTION OF STATE STATUTES.

Sections 27.09 and 86.03, *Wis. Stats.*, are hereby adopted and incorporated herein by reference and the words in Section 27.09, *Wis. Stats.*, “board of park commissioners” or “board” and “City Council” shall mean the Village Board and “city” shall mean the Village.

State Law Reference: Secs. 27.09 and 86.03, *Wis. Stats.*