

CHAPTER 5- STREETS, ALLEYS AND SIDEWALKS

CITY OF FENNIMORE

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5.01 STREET AND SIDEWALK EXCAVATIONS AND OPENINGS

(1) PERMIT REQUIRED. No person shall, without first obtaining a permit from the Director of Public Works, make any opening in any street, alley, sidewalk or any public way within the City. No permit shall be granted when the ground is frozen unless the Director determines such opening is necessary.

(2) APPLICATION. Any person desiring to make any excavation or opening as aforesaid shall make applications for permission therefore, in writing, addressed to the Director of Public Works, stating the location of the excavation or opening to be made, the size of the same, the purpose for which the same is to be made and the length of time for which the excavation or opening is to remain in existence. Said application shall be filed with the City Clerk and shall be accompanied by a cash deposit as provided in Section 25.045 of this code which shall be paid to the City Treasurer and his or her receipt issued therefore. Thereupon, and being satisfied that this section will be complied with the Director of Public Works shall approve the application.

(3) USE OF DEPOSIT. Said deposit shall be made as a guaranty that said excavation or opening will be made in accordance with this section and that the street or public way in which said excavation or opening shall be made shall be placed in the same state of repair and with the same type of surfacing materials as it was prior to the excavating thereof. The repair of such street shall be made by the person excavating or opening the same under the direction of the Director of Public Works, and upon obtaining a statement from him or her that said street or public way has been repaired to his or her satisfaction, said deposit shall be refunded by the City Treasurer to the person making the same. If the permittee chooses to have the City provide the final surfacing material and placement of said material, or if such

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street is not repaired within one (1) year after making of such excavation or opening, the Director of Public Works shall make such repairs and pay the expense of the same out of said deposit refunding the balance, if any, remaining after such repairs have been completed to the person making the same. If the cost of surfacing exceeds the deposit the property owner shall forthwith upon notification pay such cost to the City Treasurer and if he or she fails to do so, such amount shall be levied as a special tax against the benefited property.

(4) REQUIREMENTS FOR THE PROTECTION OF THE PUBLIC. Every permittee shall enclose each opening which he or she may make in the streets or public ways of the City with barricades and barricade lights in accordance with Part 6 of the United States Department of Transportation Federal Highway Administration Manual during the period the excavation is open and until the street or sidewalk is restored and made passable for vehicular and pedestrian traffic. All machinery and equipment shall be locked or otherwise effectively safeguarded from unauthorized use when not being used by the permittee, his or her agents or employees. Except by written permission from the Director of Public Works, no trench shall be excavated more than 50 feet in advance of pipe laying nor left unfilled more than 240 feet where pipe has been laid. All necessary precautions shall be taken to guard the public effectively from accidents or damage to persons or property through the period of the work.

(5) EXCAVATION, REFILLING AND REPAVING REQUIREMENTS. The permittee shall comply with all City rules and regulations governing excavation, refilling and repaving. The permittee shall make a determination whether or not sheathing and bracing shall be required. The permittee shall notify the Director of Public Works when repaving has been completed. The following guidelines shall be followed:

(a) All excavations in the street shall be brought up to grade with $\frac{3}{4}$ " or 1-1/4" road gravel, compacted in lifts not greater than 12".

(b) The existing asphalt surface shall be saw cut around the perimeter of the excavation to provide a smooth abutting surface.

(c) Asphalt surfacing shall be hot mix asphalt with a thickness of not less than 3- 1/2," and compacted with a roller style compactor.

(6) EMERGENCY EXCAVATIONS AUTHORIZED. In the event of an emergency, any person owning or controlling any sewer, conduit or utility in or under any street may 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 shall apply for an excavation permit not later than the end of the next succeeding business day.

(7) CITY WORK EXCLUDED. The provisions of this section shall not apply to excavation work done under the supervision of the Director of Public Works by City employees or contractors performing work under contract with the City necessitating excavations in City streets.

5.02 CURB AND GUTTER

(1) Permit: No person, firm or corporation shall construct or maintain any curb and gutter without first obtaining a permit from the Director of Public Works for such construction.

(2) The size, shape, grade and construction of all new or replacement curbs and gutters shall be in accordance with the plans and specifications for the same as approved for such construction by the Director of Public Works.

(3) Construction by City: The cost of any curb or gutter being placed or replaced by or under contract with the City shall be borne by the City.

(4) Construction By Property Owner: Any owner of property on any street for which a grade has been established may construct a curb or curb and gutter conforming to such grade along the front of his or her premises and fill the space between such curb and his sidewalk with earth and seed or sod, subject to the restrictions in this chapter and subject to the rights of the City to change any grade, provided such curb or curb and gutter is built in conformity with plans and specifications adopted by the City Council. The property owner obtaining the permit is responsible for paying the entire costs of material and labor for the installation of the curb and gutter.

(5) Construction By Developer: See Chapter 20 – Subdivisions.

(6) Streets Crossing Lincoln Avenue: For all streets crossing Lincoln Avenue from Second Street to Eighteenth Street, both inclusive, for one block on each side of Lincoln Avenue, the curb and gutter line shall be set to correspond and be in line with the radius curb and gutter set and installed by the Wisconsin Department of Transportation at the intersection of each said street with Lincoln Avenue.

(7) Other Streets: For all other streets the curb and gutter line shall be twelve (12) feet in from the street line on each side of a sixty (60) foot street so as to leave a thirty-six (36) foot street surface between the curb and gutter line, and all other streets which are not sixty (60) feet in width shall have a curb and gutter line on each side so as to leave a street surface of thirty-six (36) feet, unless the curb and gutter and street surface width for any block is otherwise established by action of the Common Council in the following manner: If the Director of Public Works and the Property & Infrastructure Committee determine that it is advisable to establish a

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different curb and gutter line at street surface width other than that established by this section for any block, the Common Council may authorize such changes for such block.

(8) Federal or State Highways: Nothing in this ordinance shall be construed to affect the curb and gutter lines on any streets that are Federal or State Highways.

(9) Whenever a space is left between the sidewalk and the curb, like space shall be neatly graded from the top of the walk to the top of the curb, and the grass thereon kept short by the owner of the abutting property at his or her expense. In the event of the neglect or refusal of the owner to so do, the City may cause to be done all such work and charge the cost thereof against the property. No trees, shrubs, poles, tie posts, or other such obstructions shall be placed thereon without the consent of the Director of Public Works.

5.03 DRIVEWAYS

(1) Permit: No person, firm or corporation shall construct or maintain any driveway across any sidewalk or curbing without first obtaining a permit from the Director of Public Works for such construction.

(2) Standards: All construction of such driveways shall be done in conformity with approved standards of workmanship.

(3) Width:

(a) Residential/Agricultural: No driveway shall exceed thirty (30) feet in width measured at the curb line unless special permission is obtained from the Common Council.

(b) Commercial/Industrial: No driveway shall exceed forty (40) feet in width measured at right angles to the center line of the driveway, except as increased by permissible radii unless special permission is obtained from the Common Council.

(4) Curbing: In the construction of such driveways no curbing shall be disturbed within seven (7) feet of the regular street crosswalk.

(5) Driveway Apron: No driveway apron shall extend into the street further than the face of the curb, and under no circumstances shall such driveway apron extend into the gutter areas.

5.04 SIDEWALKS

(1) Applicability of Section 66.0907: Whenever the Common Council 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 City, it shall proceed according to s. 66.0907, Wis. Stats.

(2) Policy Regarding Construction, Removal, Replacement or Repair.

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(a) It shall be the policy of the City of Fennimore to direct the construction of sidewalks within public right-of-ways or easements along collector and arterial streets or within 1/8 of a mile of public facilities such as parks, schools, medical services, university or housing for special needs populations. The Common Council shall make the determination of projects and the timing of construction.

(b) The Common Council will adopt a map showing those streets which will ultimately have sidewalks. The map may be revised from time to time, and will be maintained by the Director of Public Works.

(c) The Common Council shall give the highest priority to repairs of existing sidewalks.

(d) Sidewalks may be built on one or both sides of the street and may not necessarily be continuous on one side if prudent to avoid obstacles.

(3) Authority of the Director of Public Works and Common Council: The Director of Public Works may order any sidewalks which are unsafe, defective or insufficient to be repaired or removed and replaced with a sidewalk in accordance with the standards established by this section or by resolution of the Council.

(a) Notice: A copy of the order or resolution directing the laying, removal, replacement or repair of any sidewalk shall be served upon the owner, or an agent, of each lot or parcel of land in front of which such work is ordered. The Director of Public Works, if so requested by the Council, may serve the notice. Service of the notice may be made by:

1. Personal delivery; or
2. Certified or registered mail; or
3. Publication in the official newspaper as a Class 1 notice, under Chapter 985, Wis. Stats., together with mailing by first class mail if the name and mailing address of the owner or an agent can be readily ascertained.

(b) Default of the Owner: Whenever any such owner shall neglect for a period of twenty (20) days after such service to lay, remove, replace or repair any such sidewalk, the City may cause such work to be done at the expense of the owner. All work for the construction of sidewalks shall be let by contract to the lowest responsible bidder, except as provided by Section 62.15(1), Wis. Stats.

(4) Expense:

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(a) Owner to Construct. It shall be the duty of the abutting owner to construct or replace sidewalks along or upon any street, alley or highway in the City of Fennimore and to pay the entire cost thereof as required by the Common Council in those areas not shown on the sidewalk map as adopted by the City Council

(b) In areas where existing sidewalk is not shown on said map, the abutting landowner shall reserve the right to remove the existing sidewalk and replace with any surfacing material authorized under this code, entirely at the landowner's expense.

(c) City to Maintain and Repair. It shall be the responsibility of the City to maintain, replace and repair damaged sidewalk in those areas shown on the sidewalk map adopted by the City Council. The Public Works Director is authorized to direct an annual repair program consistent with budgetary appropriations. However, the property owner shall be responsible for sidewalks damaged by the property owner, agent or contractor working on behalf of the property owner.

(5) Specifications: The City Council and Director of Public Works may from time to time determine where sidewalks shall be constructed and the Common Council may establish the width, determine the material and prescribe the method of construction of standard sidewalks. Unless a different standard is established by resolution of the Common Council for any sidewalk, the standard sidewalk shall meet the following specifications:

(a) Shall be built of concrete.

(b) Shall be not less than four (4) inches thick, except through driveways, which shall be not less than six (6) inches thick.

(c) Shall be not less than four (4) feet wide.

(d) Shall be of a six (6) bag mix at the minimum.

5.05 SNOW AND ICE REMOVAL

(1) Responsibility of Owner or Occupant. The owner, occupant or person in charge of every lot or parcel of land in the City fronting of or abutting a street shall clean or caused to be cleaned, the sidewalk in front of or adjoining each such lot or parcel of land, of snow and ice to the width of the sidewalk within 24 hours after such snow or ice has accumulated thereon. In the event snow or ice shall become frozen so hard it cannot practically be removed, the owner or occupant shall sprinkle the sidewalk with sand, salt, sawdust or other suitable material and shall clean such sidewalk as soon as weather permits.

(2) Prohibited Snow Disposal.

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(a) No person shall remove snow or ice from private property owned or occupied by him or her by depositing the snow or ice on or in the paved portion of any city street within the City of Fennimore. No person shall permit another to remove snow or ice from private property owned or occupied by him or her by depositing the snow or ice on or in the paved portion of any city street within the City of Fennimore.

(b) No person shall pile snow on private property owned or occupied by him or her in such a manner as to block access by the City employees to waste disposal dumpsters located on such property.

(c) No person shall pile snow on private property owned by another person without the consent of the owner.

(d) No person shall pile snow on private property owned or occupied by him or her in such a manner as to impair visibility at intersections.

(3) Exception. Owners or occupants of property located on Lincoln Avenue between 7th Street and 13th Street may deposit snow and/or ice from their sidewalks abutting Lincoln Avenue onto the parking lanes of Lincoln Avenue. Owners or occupants of corner lots located on Lincoln Avenue between 7th Street and 13th Street may deposit snow and/or ice from their sidewalks abutting side streets onto the parking lanes of such side streets.

(4) Removal by City. Failure to remove snow and ice, as required under sub. (1) above, or the deposit of any snow or ice upon street of the City contrary to the provisions of sub. (3) above shall be and is declared to be a nuisance and, in addition to the penalty provided for violation of this section, the City may summarily remove any snow or ice so accumulated or 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. If not paid within 30 days, such charge shall be extended upon the current or next tax roll as a special charge, as provided in Wis. Stat. sec. 66.0627.

5.06 OBSTRUCTIONS AND ENCROACHMENTS

(1) PROHIBITED. Except as set forth in paragraph (2) below, no person, firm, corporation, or entity shall place any object or encroach upon in any way, nor in any way obstruct or encumber any street, alley, sidewalk, public grounds or land dedicated to public use, or any part thereof, nor permit such object, encroachment or encumbrance to be placed or remain on any public way adjoining the premises of which he/she or it owns or occupies, nor shall any person, firm, corporation, or entity place or allow to be placed collected grass clippings onto or into any street, gutter, or storm sewer.

(2) EXCEPTIONS. The prohibition of sub. (1) above shall not apply to the following:

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(a) Public utility encroachments duly authorized by State law or the Common Council.

(b) Temporary encroachments or obstructions authorized by permit granted pursuant to 66.0425, Wis. Stats., or any amendments thereto.

(c) Excavations and openings permitted under sec. 5.01 of this chapter.

(d) Dumpsters, if prior to placement of same a permit has been obtained from the City Clerk, subject to the following terms and conditions:

1. Payment of a per dumpster permit fee as provided in Section 25.045 of this code, which shall be valid for a twenty-one (21) day period from date of issuance.

2. Renewal for the permit must be requested 3 days prior to expiration and review/approval may be granted by the Director of Public Works or Police Chief, or their designees. No single renewal period shall last for more than twenty-one (21) days, and a renewal fee as provided in Section 25.045 of this code is required.

3. Dumpsters allowed hereunder shall be secured via reflective barricades or cones.

4. Any damage done to the public street, sidewalk, or any other municipal property shall be repaired solely at the permit applicant's expense.

5. Failure to obtain a permit or comply with the terms of the permit or failure to remove the dumpster upon expiration of the permit shall be grounds for the City, or the City's contracted agent, to remove the dumpster at the permit applicant's expense, and a forfeiture as provided in Section 25.04 of this code, per day for each day the dumpster is illegally located on a public street or sidewalk in the City.

6. A waiver of the permit due to extenuating circumstances, including, but not limited to, flood recovery and clean-up and other natural disasters, may be granted by the Director of Public Works or Police Chief, or their designees.

(e) Mailboxes and Newspaper Receptacles: The intent of this ordinance is to establish standards for providing safe mailbox and newspaper receptacle installation where required by the U. S. Postal Service. The mailbox support and mounting standards required here do not conflict with the requirements of the U. S. Postal Service.

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1. Support: The support shall be wood post, steel pipe, or steel channel installed no more than 24 inches in the ground and extending to a vertical height such that the bottom of the box is a minimum of 42 inches but not to exceed a maximum of 48 inches above the ground surface. The support shall have no larger than the following dimensions:

Square wood post: 4" X 4"

Round wood post: 4-1/4" diameter

Steel pipe: 2" inside/diameter

Steel channel: 2 lbs/ft

Dimensions exceeding these shall be deemed unacceptable and in violation of the ordinance. The support shall not be set in concrete, nor is a base plate acceptable. Anti-twist flanges may be installed on the pipe or channel supports but shall not be imbedded more than 10 inches into the ground.

2. Attachment: The box-to-post attachment shall be sufficient to prevent the separation of the box from the support post when struck. An approved newspaper receptacle may be attached to a post with a mailbox, but not on a post by itself.

3. Multiple boxes: No more than four (4) boxes shall be mounted on one support post. For a multiple installation, support posts shall be spaced a minimum longitudinal distance apart which is equal to three-quarters of the height of the posts in the installation.

4. Boxes shall be located on the right side of the road. (The left side is permissible on one-way streets or roads.) Boxes shall be located on the far side of driveways. The face of the box shall be located a minimum of 6 inches behind the traffic face of curb and a minimum of 12 inches behind the traffic face of curb.

5. Installations shall avoid blind spots or poor sight distance locations.

6. Mailboxes and Newspaper receptacles placed within the street R.O.W. are the sole property and responsibility of the property owners. The City of Fennimore shall not be liable for damages caused to or by mailboxes and newspaper receptacles placed within the street R.O.W.

5.07 STREET NUMBERING SYSTEM

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(1) STREET NUMBERING MAP. All lots and parts of lots in the City shall be numbered in accordance with the Street Numbering Map on file in the office of the Clerk-Treasurer. All lots and parts of lots hereafter platted shall be numbered to conform as nearly as possible to the general scheme of numbering as outlined on said Map.

(2) NUMBERING REQUIRED.

(a) Existing Buildings. The owner of every house, dwelling and business establishment in the City shall cause to be designated on or attached to such structure within 5 feet of its front entrance or directly above the garage door of a garage which is attached to or a part of the main structure, and which faces the street upon which such structure is located and to which such numbering pertains, figures or words indicating the street number of such structure, and shall maintain such numbering in a good state of repair and attached to said structure.

(b) New Building. Within 20 days of completion, the builder or owner or every new dwelling or business establishment in the City shall designate on or attach to such structure a street number in the manner set forth in par. (a) above.

(3) NUMBER STANDARDS. The figures or words which shall be used to indicate the number of a structure shall be no less than 3 inches in height, shall be clearly distinguishable from and of contrasting color to the color and surface of the underlying structure, and shall be clearly readable from a distance of 50 feet.

5.08 TREE PLANTING AND CARE

(1) PURPOSE. The purpose of this section is to promote and protect the public health, safety and general welfare of persons and property by providing for the regulation of planting, maintenance, and removal and protection of trees, shrubs and other plants with public areas of the City of Fennimore, to eliminate and guard against dangerous conditions which may result in injury to persons using the streets, sidewalks or other public areas of the City, 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 City, against the spread of disease, insects or pests.

(2) GOALS. The provisions contained in this Section are designed to yield specific goals when properly implemented. These goals are:

(a) Develop and Preserve the Urban Forest of the City of Fennimore. Dynamic ecosystems are comprised of trees, soil, water, air, wildlife and humans. Proper stewardship of the ecosystem is the most efficient and economical method of ensuring a safe and relatively hazard-free environment for the citizens of Fennimore.

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(b) **Promote Age and Species Diversity of the Tree Population:** The long-term health of Fennimore's urban forest depends on a proper distribution of young, middle-aged and mature trees. Adequate stocking of variously aged trees ensures that as mature trees decline and are removed, younger trees are available to fill in the canopy. Species diversity is also important to guard against substantial losses to a species-specific pests or disease, such as Dutch elm disease, emerald ash borer or oak wilt.

(c) **Improve Species and Site Selection for New Tree Plantings:** Increasing species diversity will only improve the urban forest if the species are matched with the site in which they are growing. Large trees provide the greatest benefit relative to energy conservation, air quality and storm water retention, but require sufficient space to reach their full size at maturity. Large-growing trees shall not be planted directly under existing power lines. Small trees can be used in a variety of places that are size restricted, however, if space will accommodate a tree that achieves a larger size at maturity, the larger-growing species shall be considered. The proper tree should be located according to the conditions of the site with consideration given to increasing canopy closure, maximizing environmental benefits and achieving consistency in the landscape design.

(d) **Establish Optimum Canopy Closure:** Trees help to conserve energy by providing shade to buildings during the summer. Additional cooling can be realized by shading roads and parking lots that would otherwise absorb sunlight and radiate heat. Since Fennimore is located in a climate where considerably more energy is spent on heating than cooling, consideration must also be given to the effect of shade on heating costs in the winter. Careful consideration of the establishment of new trees will result in the optimum canopy closure relative to energy conservation.

(e) **Resolution and Prevention of Tree-Hardscape Conflicts through Coordinated Planning:** Trees require space for roots, trunk and branches. Frequently the space occupied by portions of trees is needed for other elements of the infrastructure such as roads, sewers, utility lines and buildings. Conflicts between trees and other infrastructure components can be minimized through the cooperation of the various City departments, local utility companies and citizens. The provisions of this Section are intended to facilitate communication and cooperation between those individuals and agencies charged with maintaining Fennimore's infrastructure.

(f) **Promote Public Education and Support:** The primary reason for care for trees and natural resources in Fennimore is to improve the community for its citizens. The urban forest management program must be based on the informed support of the citizens. The goal of this Section is to provide proper tree care through informed, professional management based on knowledge. Those City employees responsible for the management of natural resources in Fennimore are also responsible for sharing their knowledge and sources of information with the public. The City's urban forest management program may also include the use other resources such as industry literature, website information and locally sponsored citizen workshops to educate citizens about tree-related matters.

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(g) Facilitate the Resolution of Tree-Related Conflicts: A goal of this Section is to make available reasonable and fair guidelines for maintaining healthy, structurally sound and safe trees, and providing a comprehensive standards manual for planting, pruning and removing trees. By providing these guidelines in a clear and understandable format, equal and fair treatment is guaranteed for all residents.

(3) DEFINITIONS. In this section:

(a) “Frame” refers to a device used to stabilize or provide protection to a tree. May include staking materials, blocks or other landscaping materials around the base of a tree.

(b) “Hazardous tree” refers to any tree or tree part which by reason of its condition and/or location reasonably appears to pose a risk upon failure or fracture of causing injury to people or damage to property, as determined by the Director of Public Works.

(c) “Major alteration” refers to trimming a tree beyond one-third (1/3) of the crown.

(d) “Public place” refers to all City-owned and maintained lands, including street rights-of-ways and parks.

(e) “Public street” refers to the paved portion of a street, extending from the back of curb to back of curb, or to the furthestmost point of hard surfacing.

(f) “Public trees” refers to all trees/shrubs/bushes growing on public places.

(g) “Shrub” refers to any woody vegetation or woody plant having multiple stems and bearing foliage from the ground upward or any tree which, when mature, normally attains a height less than 14 feet above ground level.

(h) “Sight triangle” refers to a triangle formed by measuring 30 feet back in both directions from the point of intersection of the curb lines of two intersecting streets measured from the intersection of the nearest edge of the paved street roadway.

(i) “Tree” refers to any woody plant normally having one stem or trunk bearing its foliage or crown which, when mature, normally attains a height of 14 feet or more above ground level.

(j) “Urban forest” refers to the collection of trees, shrubs and other plants in and around the City, including park and street trees on public property and on private property.

(4) ADMINISTRATION.

(a) The Property and Infrastructure Committee governs the City’s Urban Forestry Program and shall appoint the Director of Public Works, or designee, to direct, manage, supervise and control the planting, maintenance, removal and protection of trees and shrubs in

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the City of Fennimore, including other duties of the urban forestry program as provided under Chapter 27, Wis. Stats.

(b) This ordinance provides full power and authority over all trees, plants and shrubs, located within street rights-of-ways, parks and public places of the City; and to trees, plants and shrubs located on private property that constitute a public hazard or threat as described herein.

(5) PLANTING, MAINTENANCE AND REMOVAL

(a) No person shall plant, cut, remove, spray or otherwise treat trees, plants or shrubs within the City street right-of-way without prior approval from the Director of Public Works.

(b) Any person, adjacent to whose land any public tree is growing in public areas, may, for the purpose of protecting such tree, surround the same with a suitable box or frame or staking for protection, but such work shall be performed under the supervision and direction of the Director of Public Works. The City may, at its discretion, remove frames or landscaping located in public rights-of-ways.

(c) Within the right-of-way, the space between trees shall not be less than the diameter of their total mature spread.

(d) Trees may not be planted in the right-of-way closer than:

1. Twenty (20) feet to a utility or street light pole.
2. Fifteen (15) feet to a driveway or alley.
3. Six (6) feet to a water stop box or gas shut off.
4. Ten (10) feet to a fire hydrant.

(e) The City shall maintain a list of prohibited trees in the street right-of-way.

(f) No shrubs shall be planted in the street right-of-way. Planting of shrubs identified as "invasive species" shall be prohibited in all public and private areas of the City. A list of such shrubs shall be kept on file with the Director of Public Works. All such shrubs are hereby declared to be nuisances. Any person planting, keeping or maintaining any of said shrubs on his/her premises shall cause the same to be removed. If any owner shall fail to remove such shrub within 30 days after receiving written notice from the City, the City shall cause the removal of such shrub and report the full cost thereof to the City Clerk-Treasurer, who shall place such charge upon the next tax roll as a special charge against the premises.

(g) Trees planted in the right-of-way shall be from a list of approved species as provided by the City. Chemical treatment of trees (injected or topical methods) shall be approved by the Director of Public Works prior to application.

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(h) Trees standing in and upon any public street right-of-way, or upon any lot or land adjacent thereto shall be pruned and trimmed by the owner or owner or occupants of the property on or in front of which such trees are growing, so that the lowest branches projecting over the public street or alley will provide a clearance of not less than sixteen (16) feet and a clearance of not less than ten (10) feet over any other public place, as measured during full foliage, and so that no dead, broken or otherwise hazardous branches shall be likely to fall and do injury to the public. Any tree not so trimmed as herein provided shall be deemed hazardous.

(i) No person shall hereafter plant any tree in or upon any public street, parkway, boulevard or other public place within the City unless he or she shall first secure written permission from the Director of Public Works, who shall not approve any such planting if in his or her opinion said tree will constitute a nuisance to the public or adjoining property owners or interfere with the safety of the public or the operation of any sewer or water system or public utility. The Director of Public Works shall cause the removal of any tree planted in violation of this section at the property owner's expense. The Director of Public Works shall report the full cost thereof to the Clerk-Treasurer who shall thereupon enter such cost as a special charge against the property, as provided in 66.0627, Wis. Stats.

(j) In cutting down trees located in the public right-of-way, the tree shall be removed from the stump and roots grubbed out or ground out to a depth of at least six (6) inches below grade measured in a straight line from the normal grade of the top surface of the sidewalk or six (6) inches below grade measured as a straight line from the normal grade of the sidewalk to the top of the curb. All wood and debris shall be removed from the street roadway prior to the end of each working day and all holes shall be filled to normal grade level with topsoil as soon as practicable. The abutting property owner shall have right of first refusal to keep the wood, provided that such wood is not diseased and further provided that the wood is removed from the boulevard immediately after the tree is cut down.

(k) No oak tree within the limits of the City of Fennimore shall be pruned between April 1 and July 1 of each year, to avoid the spread of oak wilt.

(l) The City may from time to time share in the cost of planting, trimming and removal costs for trees in the public right-of-way based on budgeted funds and/or grant funds available. The City also supports budgeting funds for educational activities related to tree care activities. In the event budgeted funds and/or grant funds are insufficient to pay all the cost of planting, trimming and removal cost for trees in the public right of way, the City may impose a special charge on the abutting property for the cost of such planting, trimming or removal pursuant to Wis. Stat. sec. 66.0627.

(6) INJURY.

(a) Pruning is permitted, but no person shall injure any tree or shrub planted in any such public place.

(b) Pruning of public trees and shrubs shall conform to city guidelines.

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(c) No person shall make major alterations to trees in the public right-of-way or on public property unless such work is approved, in writing, by the Director of Public Works.

(d) No person shall attach any sign, poster, notice or other object on any tree, or fasten any guy wire, cable, rope, nails, screws or other device to any tree, except that the city may tie official regulatory temporary signs to trees when necessary in conjunction with street improvement work or tree maintenance work.

(e) All trees on publicly owned land 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.

(f) Tapping public trees for maple syrup shall require approval from Director of Public Works.

(g) Public trees are public property and injuring or damaging public trees is prohibited.

(7) HAZARDOUS AND INFECTED TREES.

(a) Any tree or part thereof, whether alive or dead, which the Director of Public Works, or designee, shall determine to be infected, hazardous or a nuisance so as to endanger the public or other trees, plants or shrubs, growing within the City, to be injurious to sewers, sidewalks, or other public improvements, whether growing on public or private premises, shall be removed, trimmed or treated by the owner of the property upon or adjacent to which such tree or parts thereof are located.

(b) Whenever the Director of Public Works shall determine that any tree, shrub or part thereof is infected with a deleterious or fatal tree disease or is in a weakened condition or harbors insects, pests or vectors, the Director of Public Works may cause all trees or shrubs within an appropriate distance thereof to be sprayed with an effective disease-destroying concentrate or other insecticide.

(c) The Director of Public Works, Street Superintendent, or Electric Line Worker Supervisor shall give written notice of said owner to remedy the situation which shall be served personally or, if the owner of occupant cannot be located by reasonable diligence, shall be posed upon the affected tree. Such notice shall specifically state the period of time in which such action must be taken, with shall be within no less than seven (7) days nor more than fourteen (14) days as determined by the Director of Public Works based on the seriousness of the condition or the danger to the public.

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(d) If the owner shall fail to remove, treat or trim said tree within the time specified, the City shall cause the tree to be removed, treated or trimmed and shall report the full costs thereof to the City Clerk who shall thereupon enter such costs as a special charge against the property.

5.09 BROADBAND PERMITTING

(1) Purpose and policy: The purpose of this section is to encourage the development of broadband access in the City of Fennimore by reducing administrative obstacles to broadband service providers and coordinating the review of applications to ensure such applications are timely processed. This chapter shall at all times be construed consistent with the aforesaid purpose.

(a) Definitions. In this chapter:

(i) "Applicant" means a person applying for a permit for a broadband network project.

(ii) "Broadband network project" means the construction or deployment of wireline or wireless communications facilities to provide broadband communications services in the City of Fennimore.

(iii) "Permit" means any local permit, license, certificate, approval, registration, or similar form of approval required by policy, administrative rule, regulation, ordinance, or resolution with respect to a broadband network project.

(iv) "Written" or "in writing" means information that is inscribed on a tangible medium or that is stored in an electronic or other intangible medium and is retrievable in perceivable form.

(b) Point of contact. The City of Fennimore shall appoint a single point of contact for all matters related to a broadband network project. The City of Fennimore shall provide on its public website the contact information, including the e-mail address, for the point of contact authorized to receive a broadband network project application.

(2) Electronic Submission of Applications: An applicant may sign and file all forms, applications and documentation related to a broadband network project electronically.

(3) Review of Applications: Notwithstanding any other provision in the City of Fennimore's ordinances, resolutions, regulations, policies or practices to the contrary, the following process shall apply exclusively upon receiving a broadband network project application:

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(a) Completeness review. Upon receiving a broadband network project application the City of Fennimore shall:

(i) Determine whether an application is complete and notify the applicant of the determination by the City of Fennimore in writing within ten (10) calendar days of receiving an application. If the City of Fennimore does not notify the applicant in writing of its completeness determination within ten (10) calendar days of receiving the application, the application shall be considered complete.

(ii) If the City of Fennimore determines that an application is not complete, the written notification to the applicant shall specify in detail the required information that is not complete. The applicant may resubmit an application as often as necessary until the application is complete.

(b) Approval or denial of complete applications.

(i) Within sixty (60) calendar days of receiving an application that is complete, or considered complete under sub. (3)(a)(i), the City of Fennimore shall approve or deny the application and provide the applicant written notification of the approval or denial. If the City of Fennimore does not notify the applicant of its approval or denial within sixty (60) calendar days of receiving a complete application, the application shall be considered approved and any required permit shall be considered issued.

(ii) If the City of Fennimore denies an application, the written notification of the denial under sub. (3)(b)(i) shall include evidence that the denial is not arbitrary and capricious.

(4) Fees: The City of Fennimore shall impose no fee to review an application or issue a permit. Fees to perform any other activity related to a broadband network project shall be reasonable.

(5) Initial Applicability: The treatment of this ordinance first applies to applications received by the City of Fennimore on or after the effective date of this ordinance.

5.10 PENALTIES

The penalty for violation of any provision of this Chapter for which a specific penalty is not enumerated, shall be that provided in s. 25.04 of this code. A separate offense shall be deemed committed for each day or part thereof during which a violation occurs or continues.

(Updated 01/11/21)