

## 6 PUBLIC WORKS

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### 6.1 GRADES

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#### 6.1.1 ESTABLISHMENT OF GRADES.

- (a) **Grades to be Established.** The grade of all streets, alleys and sidewalks shall be established by resolution by the Common Council and the same recorded by the Director of Public Works in his office. No street, alley or sidewalk shall be worked until the grade thereof is established. In all cases where the grade of sidewalks shall not have been specifically set by ordinance, the sidewalks shall be laid to the established grade of the street. All such grades heretofore established are hereby confirmed.
- (b) **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 shall be considered a part of the improvement, shall be let by contract with the other work of improving such street, and the expense thereof shall be provided for and borne in all respects like that of improving the street, but the construction shall be done by the owners of the abutting lots or parcels of land or at their expense as hereinafter provided. Before such construction is commenced by the owners of the abutting lots or parcels of land, the Director of Public Works shall, upon application by the respective owners for a sidewalk grade, cause such sidewalk grade to be established. The cost of furnishing such grade shall be borne by the City.

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

### 6.1.2 ALTERATION OF GRADE PROHIBITED.

No person shall alter the grade of any street, alley, sidewalk or public ground or any part thereof in the City of Glendale by any means whatsoever unless authorized or instructed to do so by the Director of Public Works. All such alterations of grade shall be recorded in the office of the Director of Public Works.

### 6.1.3 REGULATION OF UNDERGROUND UTILITIES.

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

due to any other changes which may occur by reason of which such moving, relocation or removing may be necessary.

## 6.2 STREETS AND SIDEWALKS

- 6.2.1 REMOVAL OF RUBBISH AND DIRT FROM SIDEWALKS
- 6.2.2 CONSTRUCTION AND REPAIR OF SIDEWALKS
- 6.2.3 EXCAVATIONS OF STREETS, ALLEYS, PUBLIC WAYS AND GROUNDS
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- 6.2.10 DOWNSPOUTS AND EAVES OF BUILDINGS NOT TO DRAIN ON SIDEWALKS
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- 6.2.15 STREET NUMBERS
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- 6.2.17 OBSTRUCTIONS PLACED IN MILWAUKEE RIVER; DUTIES OF RIPARIAN OWNERS

### 6.2.1 REMOVAL OF RUBBISH AND DIRT FROM SIDEWALKS.

No owner or occupant shall allow the sidewalk abutting on his premises to be littered with rubbish or dirt. If such owner or occupant shall refuse or fail to remove any such rubbish or dirt when notified to do so by the Director of Public Works, the Director may cause the same to be done and report the cost thereof to the City Clerk who shall spread the cost on the tax roll as a special tax against the premises, pursuant to Wis. Stats. §66.60(16), or such cost may be recovered in an action against the owner or occupant.

### 6.2.2 CONSTRUCTION AND REPAIR OF SIDEWALKS.

- (a) **Council May Order.** The Common Council may determine that sidewalks, curb and gutter and suitable street surface material may be constructed, laid, rebuilt or repaired along or upon any public street, right-of-way or highway within the City. The Council may determine or change the width or grade of any street or sidewalk.

- (b) **Owner to Construct.**
- (1) It shall be the duty of the abutting owner to pay for, pursuant to the City's Special Assessment Cost Policy in Section 3-2-14, and build, repair, construct and rebuild streets, curb and gutter, or sidewalks along or upon any street, alley or highway in the City of Glendale and to pay the appropriate cost of construction thereof. Such costs shall include expenditures for engineering, excavations, gravel and driveway approaches.
  - (2) 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 Wis. Stats. §66.615 and/or §66.22. Other projects shall be assessed to abutting property owners pursuant to Wis. Stats. §66.60.
  - (3) Sidewalks shall be located in such places as designated by the Director of Public Works. No person shall remove any sidewalk without the permission of the Director of Public Works.
- (c) **Sidewalk Permit Required.** No person shall hereafter lay, remove, replace or repair any public sidewalk within the City unless he is under contract with the City to do such work or has obtained a permit therefor from the City Clerk at least three (3) days before work is proposed to be undertaken. A fee of Fifty Dollars (\$50.00) shall be charged for such permits.
- (d) **Specifications.** Sidewalks, streets and curb and gutter shall be constructed in accordance with the specifications adopted by the Common Council and on file with the Director of Public works unless such ordinance or resolution ordering the sidewalk construction establishes a specific standard therefor.
- (e) **Repair or Replacement of Defective Sidewalks.** Pursuant to Wis. Stats. §66.615, the Common Council may order at any time property owners to repair or remove and place any sidewalk which is unsafe, defective or insufficient. If the property owner shall fail to so repair or remove and replace such sidewalk within sixty (60) days after service of the notice provided in Wis. Stats. §66.615(3)(c), the Common Council shall repair or construct such sidewalk and the City Clerk shall enter the total cost thereof upon the tax roll as a special tax against said lot or parcel of land. If a life-threatening situation exists which is caused by a sidewalk in need of repair, the Director of Public Works shall direct the property owner to make repairs within seven (7) days. If the property owner shall fail to repair such sidewalk within the required period, the Common Council shall make the necessary repairs and the City Clerk shall enter the total cost thereof on the tax roll as a special tax against said parcel.
- (f) **Illegal Sidewalks.** No sidewalk which shall be constructed contrary to the provisions of this Section shall be considered a legal sidewalk and the same may be ordered to be replaced with a legal sidewalk and with one that is in conformity with this Section, the same as if no sidewalk whatever had been built or constructed in the place where any such sidewalk is located.

State Law Reference: Wis. Stats. §66.615.

### 6.2.3 EXCAVATIONS OF STREETS, ALLEYS, PUBLIC WAYS AND GROUNDS.

- (a) **Permit Required.** No person, partnership or corporation, or their agents or employees or contractors, shall make or cause to be made any opening or excavation in any public street, public alley, public way, public ground, public sidewalk or City-owned easement within the City of Glendale without a permit therefor from the Director of Public Works.
- (b) **Application for Permit.** The application for a permit shall be in writing and signed by the applicant or his agent. The applicant shall submit to the Director of Public Works, at the time the permit is applied for, sufficient information relating to the work to be done including the general location and nature of the work and the method applicant proposes to use in doing the work. The Director of Public Works shall determine if sufficient information is submitted.
- (c) **Exception.** The provisions of this Section shall not apply to City excavation work done under the direction of the City Engineer.
- (d) **Validity of Permit.** Permits shall be valid for a period of thirty (30) days from the date of approval, except as provided for under Section 6-2-4(g) for pavement replacement.
- (e) **Renewal of Permit.** If operations have begun under an approved permit and will continue beyond the validation period, the permittee shall apply for a permit renewal by request to the Director of Public Works and payment of a Fifty Dollars (\$50.00) renewal permit fee for each fifteen (15) day extension period so approved. Permit renewals shall be issued at the discretion of the Director of Public Works.
- (f) **City Standards; Fees.**
- (1) City Standards. All Street work shall be performed in accordance with the current standard specifications for street openings. Any damaged curb and gutter, sidewalk or grass-covered area shall be restored to the condition prior to damage.
  - (2) Fee. The fee for a street opening/work and right-of-way permit shall be One-Hundred Dollars (\$100.00) plus actual City expenses. Permit fees shall be paid to the City Treasurer who shall issue a receipt therefor.
  - (3) Deposit. In addition to the fee required herein, a deposit against damage, refundable in whole, or in part, upon completion, shall be required along with payment of the application fee:
 

Street Deposit: Excavation on asphalt street	\$1,000.00
Street Deposit: Excavation on concrete street	\$3,000.00
Boring Monitoring Wells	\$1,000.00
- (g) **Insurance Required.** A permit shall be issued only upon condition that the applicant submit to the Director of Public Works satisfactory written evidence that applicant has in force and will maintain during the time the permit is in effect public liability insurance of not less than \$500,000 per one (1) person, \$500,000 for one (1) accident and property damage coverage of not less than \$500,000. The policy shall name the City of Glendale as the third party insured.

(h) **Bond.**

- (1) Before a permit for excavating or opening any street or public way may be issued, the applicant must sign a statement that he will indemnify and save harmless the City of Glendale and its officers from all liability for accidents and damage caused by any of the work covered by his permit, and that he will fill up and place in good and safe condition all excavations and openings made in the street, and will replace and restore the pavement over any opening he may make as near as can be to the state and condition in which he found it, and keep and maintain the same in such condition, normal wear and tear excepted, to the satisfaction of the Director of Public Works for a period of two (2) years, and that he will pay all fines of forfeitures imposed upon him for any violation of any rule, regulation or ordinance governing street openings or drain-laying adopted by the Common Council and will repair any damage done to existing improvements during the progress of the excavation in accordance with the ordinances, rules and regulations of the City. Such statement shall also guarantee that, if the City shall elect to make the street repair, the person opening the street will pay all costs of making such repair and of maintaining the same for two (2) years.
- (2) Faulty work or materials shall be immediately replaced by the permittee upon notice by the City. Failure to correct deficiencies shall result in a one (1) year revocation of the right to obtain a street opening permit. The City shall repair the deficiencies and bill the permittee for all labor, materials and equipment used plus twenty percent (20%) for administration.
- (3) The person who does such restoration shall be responsible therefor for two (2) years from the date of the completion of the work and shall file a written guarantee or surety bond to that effect with the City in an amount determined by the Director of Public Works.
- (4) Whenever the Director of Public Works shall find that any such work has become defective within two (2) years of the date of completion, he shall give written notice thereof to the contractor or to his surety stating the defect, the work to be done, the cost thereof and the period of time deemed by the Director of Public Works to be reasonably necessary to complete said work. After receipt of such notice, the contractor or the surety must, within the time specified, repair the defect or indemnify the City for the cost of doing the work as set forth in the notice.
- (5) An annual bond may be given under this Section covering all excavation work done by the principal for one (1) year beginning January 1, which shall be conditioned as specified above and in the amount determined by the Common Council as necessary to adequately protect the public and the City.

**6.2.4 REGULATIONS GOVERNING EXCAVATIONS AND OPENINGS.**

- (a) **Frozen Ground.** No openings in the streets, alleys, sidewalks or public ways shall be permitted between November 15th and May 1st except where it is determined by the Director of Public Works to be necessary.
- (b) **Protection of Public.**
  - (1) Every opening and excavation shall be enclosed with sufficient barriers, signing, and such other traffic control devices as may be required by the Director of Public Works, and in accordance with Section VI of the Wisconsin Supplement of the Manual of Uniform Traffic Control Devices. Sufficient warning lights shall be kept on from sunset to sunrise. No open flame warning devices shall be used. Except by special permission from the Director of Public Works, no trench shall be excavated more than two hundred fifty (250) feet in advance of pipe or conduit laying nor left untilled more than five hundred (500) feet from where pipe or conduit has been laid.
  - (2) All necessary precautions shall be taken to guard the public effectively from accidents or damage to persons or property through the period of the work. Each person making such opening shall be held liable for all damages, including costs incurred by the City in defending any action brought against it for damages, as well as cost of any appeal, that may result from the neglect by such person or his employees of any necessary precaution against injury or damage to persons, vehicles or property of any kind.
  - (3) Unless otherwise approved, a minimum of one (1) lane of traffic in each direction shall be provided. Every effort shall be made on the part of the permittee to provide reasonable access to all properties adjacent to his project. In the event traffic is limited to less than one (1) lane in each direction, a flagman or temporary traffic control signal shall be provided so as to safely cycle traffic in each direction past the work area.
  - (4) The permittee shall perform the work in such a manner so as not to disrupt the flow of traffic in the area or endanger the safety of workmen or passersby. It shall be the responsibility of the permittee to prevent traffic backup during construction operation. The permittee shall notify the Police Department twenty-four (24) hours prior to commencement of excavation of the location and extent of the excavation, unless the excavation is an emergency excavation as identified in Sec. 6-2-4(b).
  - (5) When the operations will result in the loss of any utility service to private properties, the private properties shall be notified in writing or by personal contact at least twelve (12) hours prior to the loss of service, unless the operations are part of an emergency excavation as defined in Section 6-2-4(g).
- (c) **Pavement Removal.**
  - (1) Removal of existing pavement shall be to neat, straight lines. The permittee shall make a final saw cut in the existing pavement after back-filling. Excavations shall be kept to the minimum possible and acceptable



for the convenience and safe performance of his work and in accordance with all applicable codes and regulations.

- (2) If the pavement is damaged during excavation beyond the original saw cut lines, it shall be saw cut again along neat, straight lines. The finished saw cut shall leave a regular rectangular section for pavement replacement. Should the street opening occur within adjacent or close to an existing patch or require more than one (1) opening within a short distance, the permittee shall identify and locate the existing patches or additional openings on the permit application form. The Director of Public Works shall, on the basis of an on-site inspection, approximate the boundaries of the pavement replacement area.
  - (3) Pavement replacement areas with the long dimension in the direction of travel shall have the long dimension parallel with the curb line or the direction of travel. Pavement replacement areas in concrete pavements shall be parallel with or at right angles to the direction of travel.
  - (4) The Director of Public Works may order the permittee to remove and replace up to one (1) full lane width of pavement along the patched or excavated area. Special care shall be taken with concrete pavement to produce a vertical face on the existing concrete at the point of the saw cut to insure a full depth of concrete at the joint.
- (d) **Excavation.**
- (1) All excavated material shall be piled in a manner such that pedestrian and motor traffic is not unnecessarily disrupted. Gutters shall be kept clear or other satisfactory provisions made for street drainage, and natural watercourses shall not be obstructed.
  - (2) Excavated material to be used for back-filling of the trench must be so handled and placed as to be of as little inconvenience as practical to public travel and adjoining tenants.
- (e) **Back-filling.**
- (1) All backfill material shall be free from cinders, ashes, refuse, vegetable or organic matter, boulders, rocks or stones greater than eight (8) inches in their greatest dimension, frozen lumps or other material which in, in the opinion of the Director of Public Works, is unsuitable.
  - (2) In refilling the excavation, if there is not sufficient material excavated suitable for refilling, the deficiency shall be made up with material, approved prior to use by the Director of Public Works. Directly placed slurry backfill is an acceptable backfill material without mechanical compaction.
  - (3) Wherever an excavation crosses an existing utility, pipe or other structure, backfill shall be carefully compacted in stages from the bottom of the excavation. Any sanitary sewer, storm sewer, water, telephone, natural gas or other service shall not be interrupted by the permittee. It shall be the permittee's responsibility to have the various utilities locate and mark their facilities prior to excavation.
  - (4) Mechanical compaction shall be used on all loose materials used for trench backfill. Each layer (12-inch maximum) shall be uniformly

compacted to a dry density of at least 95% of the maximum dry density as determined by the Modified Proctor Test (ASTM-1557). Compaction or consolidation by flooding shall not be permitted.

- (5) All excavations shall be subject to testing by the City. Back-filled material not achieving the above compaction requirements shall be removed and re-compacted by the permittee. The cost of any re-testing shall be paid by the permittee.
- (6) When the sides of the trench will not stand perpendicular, sheathing and braces shall be used to prevent caving. No timber, bracing, lagging, sheathing or other lumber shall be left in any trench. At no time shall any street pavements be permitted to overhang the excavation.
- (f) **Notice.** It shall be the duty of the permittee to notify the Director of Public Works and all public and private individuals, firms and corporations affected by the work to be done at least one (1) business day before such work is to commence. The Director of Public Works shall also be notified at least four (4) hours prior to back-filling and/or restoring the surface.
- (g) **Pavement Replacement.**
  - (1) Backfill material shall be left below the original surface to allow for five (5) inches of three (3) inch crushed stone and four (4) inches of three-quarter (3/4) inch crushed stone, plus the thickness of the required pavement structure, If paving will not occur as part of the initial street restoration operation, the balance of the opening to the original surface elevation shall be back-filled with compacted three-quarter (3/4) inch crushed stone.
  - (2) Bituminous pavement shall be placed the full depth of the existing pavement or three (3) inches, whichever is greater. Bituminous pavement shall be placed in a maximum of one and one-half (1-1/2) inch layers with each layer compacted to maximum density and shall consist of Wisconsin Department of Transportation Gradation No. 1 for the binder course and Wisconsin Department of Transportation No. 3 for the surface course. The finished surface shall be smooth and free of surface irregularities and shall match the existing pavement and any castings or street appurtenances. Allowable deviations shall be no more than one-quarter (1/4) inch as measured with a ten (10) foot straight edge.
  - (3) Concrete pavement shall be placed to the full depth of the existing pavement or seven (7) inches, whichever is greater. Concrete used shall not contain calcium chloride. The surface shall be given a light broom finish. The edges shall be tooled to prevent spalling at the saw cut edge. The surface shall be evenly and completely sealed with a white pigmented curing compound. The surface shall be protected from traffic for a minimum of three (3) days. Tie bars shall be installed as directed by the Department of Public Works.
  - (4) In emergency excavations during winter months when it is not possible to replace the removed pavement with a like material, the excavation shall be temporarily resurfaced with a minimum of three and one-half (3-1/2) inches of cold mix bituminous material. This temporary wearing surface shall be compacted and rolled smooth. These temporary wearing surfaces

shall be removed and replaced with material as specified above by not later than the following June 1st, except as provided above. Permanent pavements shall be replaced within sixty (60) days of the date of the permit.

- (h) **Emergency Excavation.** In the event of an emergency, any person, firm or corporation owning or controlling any sewer, gas main, water main, conduit or other utility in or under any public street, alley easement, way or ground and his agents and employees make take immediate proper emergency measures to remedy dangerous conditions for the protection of property, life, health or safety without obtaining an excavation permit, provided that such person, firm or corporation shall apply for an excavation permit not later than the next business day and shall notify the City Police Department immediately.
- (i) **Excavation in New Streets Limited.** Whenever the Common Council determines to provide for the permanent improvement or re-paving of any street, such determination shall be made not less than one hundred twenty (120) days before the work of improvement or re-paving shall begin. Immediately after such determination by the Common Council, the Director of Public Works shall notify in writing each person, utility or other agency owning real property abutting said street, that all such excavation work in such street must be completed within one hundred twenty (120) days. After such permanent improvement or re-paving, no permit shall be issued to open or excavate said street for a period of five (5) years after the date of improvement or re-paving unless, in the opinion of the Director of Public Works, conditions exist which make it absolutely essential that the permit be issued. Every effort shall be made to place gas, electric, telephone and television cable lines in street terraces.

### 6.2.5 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 is the owner or occupant, except as provided in Subsections (b) and (c).
- (b) **Exceptions.** The prohibition of Subsection (a) shall not apply to the following:
  - (1) Temporary encroachments or obstructions authorized by permit under Section 6-2-6 of this Section pursuant to Wis. Stats. §66.045.
  - (2) Building materials for the period authorized by the Building Inspector which shall not obstruct more than one-half (1/2) of the sidewalk or more than one-third (1/3) of the traveled portion of the street and which do not interfere with the flow in the gutters.
  - (3) Excavations and openings permitted under Sections 6-2-3 and 6-2-4 of this Code.

(c) **Issuance of Permit.**

- (1) The City Engineer is allowed to authorize property owners to place certain fixtures on sidewalks which immediately adjoin their property. In determining if a permit shall be authorized, all of the following requirements must be met:
  - a. The property must be located in an area zoned for commercial uses.
  - b. The fixture(s) shall not be physically attached to the sidewalk, any street fixture or any adjacent building, and shall be of a temporary design.
  - c. The placement of the fixture shall not impede the flow of pedestrian traffic on the sidewalk. In no event shall the fixture reduce the unobstructed sidewalk width to less than five (5) feet at any point.
  - d. The property owner shall provide the City with proof of liability insurance coverage. The insurance coverage shall be an amount of not less than \$100,000 per occurrence and the policy shall specifically state that it includes coverage for the fixtures located on the City sidewalks. In addition, the City shall be identified as a third-party insured.
  - e. The fixture(s) shall not be for sale nor shall the fixture(s) be used for the sale of merchandise. Specifically excluded are all forms of vending machines, vendors carts or tables, etc.
  - f. The property owner whose property adjoins the City sidewalk shall file the permit application or authorize the occupant of the subject property to file the permit application.
  - g. The property owner or the occupant of the subject property shall display the approved permit in the window of the building so that it can be seen from the sidewalk.
  - h. The permittee shall be required to comply with the bonding requirements of Section 6-2-6(b).
- (2) Upon reviewing the permit application if it is determined by the City Clerk that all of the above requirements have been met, he shall issue the permit. Said permit may be revoked by the Director of Public Works, City Clerk, Building Inspector or any City law enforcement officer ("City enforcement officials") at any time when one (1) or more of the above requirements are not complied with or if he determines that the placement of the fixture(s) endangers the safety of the pedestrians who utilize the sidewalks.

- (d) **Removal by City for Sidewalk Obstructions and Encroachments.** In addition to any other penalty imposed, if any City enforcement official determines that a sidewalk is unlawfully obstructed in violation of this Section, he shall issue a written notice to the owner or occupant of the premises which adjoins the obstructed sidewalk directing that the obstruction be removed within twenty-four (24) hours.

- (e) **Removal by City for Obstruction and Encroachments Located in the City Streets, Alleys, Public Grounds or Lands Dedicated for Public Use.** In addition to any other penalty imposed, if any City enforcement official determines that a City street, alley, public grounds or land dedicated for public use is obstructed or encumbered, he shall issue a written notice to the property owner of the premises which adjoin the obstructed public area directing that the obstruction be removed within twenty-four (24) hours.
- (f) **Failure to Remove Obstruction.**
- (1) If the owner or occupant fails to remove the obstruction within the time period established in Section (d) or (e) respectively, any City enforcement official shall cause the removal of the obstruction, keeping an account of the expense of the abatement, and such expenses shall be charged to and paid by such property owner. Notice of the bill for abatement of the obstruction shall be mailed to the owner of the premises and shall be payable within ten (10) calendar days from receipt thereof. Within sixty (60) days after such costs and expenses are incurred and remain unpaid, the City Clerk shall enter those charges onto the tax roll as a special tax as provided by the State Statutes.
  - (2) The failure of the City Clerk to record such claim or to mail such notice or the failure of the owner to receive such notice shall not affect the right to place the City expense on the tax rolls for unpaid bills for abating the obstruction as provided for in this Section

#### 6.2.6 STREET PRIVILEGE PERMIT.

- (a) **When Required.** Permits for the use of the streets, alleys, sidewalks or other public ways or places of the City may be granted to applicants by the City Clerk for the purpose of moving any building or structure or of encumbering the street, alley, sidewalk or way with materials necessary in and about the construction or demolition of any building or structure, provided such applicant has complied with the other requirements of this Section and has obtained a building permit if required by this Code of Ordinances. The City Clerk shall request advisory recommendations from the Chief of Police, Director of Public Works and Building Inspector prior to issuance of the permit. City officials may attach conditions to the permit, including proof of liability insurance.
- (b) **Bond.** No street privilege permit shall be issued until the applicant shall execute and file with the City Clerk a bond in an amount determined by the Director of Public Works not exceeding Twenty Thousand Dollars (\$20,000.00), conditioned that the applicant will indemnify and save harmless the City from all liability for accidents or damage caused by reason of operations under said permit and will remove such encumbrance upon termination of the operations and will leave the vacated premises in a clean and sanitary condition and repair any and all damage to the streets, alleys, sidewalks or public property of the City resulting from such building or moving operations.

- (c) **Fee.** The fee for a street privilege permit shall be in the sum of Fifty Dollars (\$50.00), plus any actual City costs.
- (d) **Conditions of Occupancy.** The permission to occupy or obstruct the streets, alleys, sidewalks or public grounds is intended only for use in connection with the actual erection, alteration, repair, removal or moving of buildings or structures and shall be given upon the following terms and conditions and subject to revocation without notice by the Director of Public Works, Chief of Police or Building Inspector for violation thereof:
- (1) Such temporary obstruction shall cover not more than one-third (1/3) of any street or alley.
  - (2) Obstructions shall be sufficiently lighted at night so as to be in full view of the public from all directions.
  - (3) Sidewalk traffic shall not be interrupted, but temporary sidewalks of not less than four (4) feet in width guarded by a closed fence at least four (4) feet high on both sides may be maintained during the period of occupancy.
  - (4) The process of moving any building or structure shall be as continuous as practicable until completed and, if ordered by the Chief of Police and Director of Public Works, shall continue during all hours of the day and night.
  - (5) No building or structure shall be allowed to remain overnight on any street crossing or intersection or so near thereto as to prevent easy access to any fire hydrant.
  - (6) Buildings shall be moved only in accordance with the route prescribed by the Director of Public Works and Chief of Police.
  - (7) Upon termination of the work necessitating such obstruction, all parts of the streets, alleys, sidewalks or public grounds occupied under the permit shall be vacated, cleaned of all rubbish and obstructions and placed in a safe condition for public travel at the expense of the permittee.
- (e) **Termination.** All street privilege permits shall automatically terminate at the end of three (3) months from the date of issuance unless an earlier termination date is specified thereon at the direction of the City Clerk.
- (f) **Removal by City.** In addition to any other penalty imposed, if the owner or occupant of the premises adjoining any lawfully obstructed sidewalk shall remove or neglect to remove such obstruction within twenty-four (24) hours after such notice from the Director of Public Works, Chief of Police or Building Inspector to do so, it shall be the duty of the Director of Public Works, Chief of Police or Building Inspector to remove such obstruction and make return of the costs and expenses thereof to the City Clerk who shall enter such cost on the next annual tax roll as a special charge against the property abutting such obstructed sidewalk, and such sum shall be levied and collected as other special taxes against real estate.

State Law Reference: Wis. Stats. §66.045.

## 6.2.7 SNOW AND ICE REMOVAL.

- (a) **Removal from Sidewalks and/or Curb Ramps for the Handicapped.** The owner and/or his/her agent, occupants or person in charge of any building, property, parcel or lot in the City of Glendale which fronts upon or adjoins any sidewalk and/or curb ramps for the handicapped shall keep said sidewalk and/or curb ramps for the handicapped, clear of all snow and ice. In the event of snow accumulating on said sidewalk and/or curb ramps for the handicapped due to natural means and/or by any other means, said sidewalks and/or curb ramps for the handicapped shall be cleared of all accumulated snow and/or ice within twenty-four (24) hours from the time the snow ceases to accumulate on said sidewalk and/or curb ramps for the handicapped. Sidewalks and/or curb ramps for the handicapped are to be kept clear of snow and ice to a minimum of four (4) feet in width in all areas of the City, except in any R1 to and through R7 and R7A zoning districts, in which sidewalks and/or curb ramps for the handicapped are to be kept clear of snow and ice to a minimum of two (2) feet in width. In the event that ice has formed in such a manner that it cannot be removed, the owner and/or his/her agent, occupant or person in charge of the building, property, parcel or lot which fronts upon or adjoins said sidewalk and curb ramps for the handicapped shall keep the sidewalk and/or curb ramps for the handicapped sprinkled with sand and/or salt to permit safe travel by pedestrians.
- (b) **Notice.** Property owners, occupants, or managers on Port Washington Road, excepting properties south of Marne Avenue and north of Hampton Avenue, Silver Spring Drive, and Green Bay Avenue shall receive one (1) official notice in November of each calendar year regarding the requirements of this Section. All other property owners will receive direct notice of the requirements of this Chapter upon a complaint basis. Notwithstanding the provisions of Subsection (a), an individual property owner receiving such a complaint based notice shall remove all ice and snow by noon the following calendar day.
- (c) **Snow and Ice Not to Encroach.** No person shall push, shovel or in any way deposit any snow or ice onto any public street, alley, sidewalk, curb ramp for the handicapped or public land dedicated to public use except for property, parcels or lots located where existing buildings are constructed within five (5) feet of the street right-of-way and the sidewalks and/or curb ramps for the handicapped exist from the City right-of-way to the curb line. In such instances, the owner(s) and/or their agent(s), occupants and/or person in charge or employees of said property, parcels or lots shall be permitted to deposit snow and ice from their sidewalks and/or curb ramps for the handicapped onto the public streets.
- (d) **Enforcement.** The Director of Public Works, his/her designees and all sworn City police officers are hereby authorized and directed to enforce the provisions of this Section.
- (e) **Non-Compliance and City Removal of Snow from Sidewalks and Curb Ramps for the Handicapped.** If the owner(s) and/or their agent(s), occupant or person in charge of any building, property, parcel or lot which fronts upon or adjoins any sidewalk and/or curb ramps for the handicapped shall fail to keep said sidewalk and/or curb ramps for the handicapped clear of snow and ice as

- set forth in Subsection (a), the Director of Public Works or City law enforcement officers shall immediately cause the removal of the snow and/or ice. Non-compliance shall be deemed a hazard, and the City shall remediate such hazard and charge the costs to the property in accordance with Subsection (g) hereafter.
- (f) **Continued Violations.** Each twenty-four (24) hour period when 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 violation under this Section.
- (g) **Cost and Expense of City Snow and/or Ice Removal.** An account of the costs and expenses incurred by the City to abate a snow and/or ice hazard, including any administrative expenses accrued in enforcing this Section, shall be kept, and such costs and expenses shall be charged to and paid by the property, parcel or lot owner. Notice of the bill for the City's removal of snow and/or ice shall be mailed to the last-known address of the owner of the property, parcel or lot, and shall be payable within ten (10) calendar days from the receipt thereof. If said expenses remain unpaid after sixty (60) days, the City Clerk shall enter those charges onto the tax roll as a special tax as provided by Wis. Stats. §66.615(5).
- (h) **Penalty.** In addition to the provisions set forth in this Section, any person, firm or corporation which violates the provisions of this Section shall be subject to a penalty as provided in Section 1-1-7 of this Code of Ordinances.

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

### 6.2.8 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 the terrace not covered by a sidewalk shall be kept free and clear of all noxious weeds and shall not be paved, surfaced or covered with any material which shall prevent the growth of plants and shall be maintained as a lawn, except in areas specifically approved by the Common Council or its designee.
- (c) **Responsibility to Maintain.** Every owner of land in the City whose land abuts a terrace is required to maintain, or have maintained by his 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.

### 6.2.9 VAULTS.

All vaults and cisterns under sidewalks shall be prohibited.



#### **6.2.10                                DOWNSPOUTS AND EAVES OF BUILDINGS NOT TO DRAIN ON SIDEWALKS.**

No downspouts from any building shall terminate on or upon, or in such position that the contents of such spout be cast upon or flow back or over any public sidewalk in the City. When the eaves of a building extend over or are so constructed that water may fall therefrom or run back upon any public sidewalk, such eaves shall be so protected by proper spouts or otherwise that no water shall fall or drain therefrom or run back upon or over any public sidewalk. The owner or owners of any building and the officers of any association or corporation owning any building on which any spouts or the eaves thereof shall be maintained contrary to this Section shall be subject to a penalty as provided in Section I-1-7 of this Code of Ordinances.

#### **6.2.11                                SALE OR DISPLAY OF MERCHANDISE PROHIBITED; SPECIAL EVENT VENDING PERMIT.**

- (a)     **Street Sales Prohibited Except by Permit.** No person shall display, sell or offer to sell on any street, sidewalk, alley or other public place within the City any goods, wares, foodstuffs or anything of value or service of any kind by putting up a booth or stopping a vehicle or person on foot or in any other manner attempting to publicly sell or offer for sale any such articles, unless such person shall have first applied for and obtained a special event vending permit from the City Clerk. Such permit shall enable holders to conduct their business in all enumerated areas subject to the limitations of this Section. A special event vending permit shall be obtained where the vending is done by a participant in a special event and where such vending is an integral part of the event. However, where the vending is to occur in connection with a City or area-wide promotion of community trade or festival sponsored or coordinated by an organization, the sponsoring organization shall obtain the special event vending permit as agent for its participating members.
- (b)     **Procedure.**
- (1)     Application for a special event vending permit shall be filed with the City Clerk and shall contain such information as the City Clerk may require. Licenses shall be signed by the City Clerk and shall be conspicuously displayed at the place where such sales are being made. The permit shall set forth the exact days on which and the exact location where such business shall be carried on and shall be valid only during the dates and at the locations specified. Where a sponsoring organization is the applicant, the applicant shall provide the City Clerk with a complete list of sponsors and participants at the time of making application.
  - (2)     Upon receipt of an application for a permit, the City Clerk shall review the information given on the application for conformity with the provisions of this Section. If all the applicable requirements are clearly and unambiguously met in the City Clerk's opinion, he shall approve the permit or approve it conditionally. If the applicable requirements are not clearly

and unambiguously met in the City Clerk's opinion, he shall state the matters in doubt in writing to the applicant within three (3) days of the time of making application.

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

### **6.2.12 REQUESTS FOR IMPROVEMENTS.**

Requests or petitions by City property owners for new streets, street resurfacing, curb and gutter, storm sewers, utility work and sidewalks shall be presented to the Common Council on or before August 1st to be considered for installation in the following year.

### **6.2.13 RAKING LEAVES INTO STREETS.**

In the interests of public safety, health and general welfare, community appearance and efficiency of operation, it shall be unlawful to rake or place fallen tree leaves or grass clippings onto the pavement or into the gutter of any public street. No person shall permit grass clippings from mower swaths to remain upon sidewalks or on abutting property. The provisions of this Section may be suspended by the Common Council.

### **6.2.14 UNLAWFUL DUMPING ON STREETS.**

It shall be unlawful for any person to deposit or cause to be deposited, dump, sort, scatter or leave any rubbish, stone, wire, earth, ashes, cinders, sawdust, hay, glass, manure, filth, paper, snow, ice, dirt, grass, leaves, construction waste, garbage or other offensive or noxious material in any public street, sidewalk, alley, or upon any public property or upon any property of another without the express permission of the owner of occupant thereof.

### **6.2.15 STREET NUMBERS.**

- (a) **Buildings to Have Street Numbers.** Each principal building in the City shall be assigned an official street number by the Building Inspector.
- (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 the official street number assigned to that building as provided in (a) hereof. The physical numbers provided herein shall be not less than two and one-half (2-1/2) inches high on a background of not less than three (3) inches. Said physical numbers shall be provided by the City Clerk's office if requested, at cost. 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. For buildings abutting also on a public alley, the street number shall also be affixed in such location that it may be seen in like manner from such alley.

**6.2.16 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.

**6.2.17 OBSTRUCTIONS PLACED IN MILWAUKEE RIVER; DUTIES OF RIPARIAN OWNERS.**

- (a) No person shall place or deposit any tree or part thereof or any foliage, leaves, grass clippings, dirt, earth, stone, sand, ground, broken concrete or any similar materials or substances in the Milwaukee River.
- (b) No person shall construct or erect any pier, retaining wall, wharf or any other structure, nor fill in any part of the Milwaukee River without first applying for and obtaining a permit from the City of Glendale. Such permit shall be issued by the Building Inspector upon application being duly made on a form provided by the City, which shall be signed by the owner of the premises and which shall be accompanied by plans of the proposed river filling, retaining wall or structure and a survey map prepared by a registered surveyor, containing on its face the certificate of such surveyor as to accuracy. No permit shall be issued until such application shall have been submitted to and approved by the Common Council. Provided that if the original permit is for a seasonal or temporary structure, the duration of the permit shall be for one year. Permits for such seasonal structures shall be automatically renewed for successive periods of one year each, after the expiration thereof, and shall permit reconstruction and maintenance for such successive periods of one year, provided such structure is reconstructed in its identical form and location. At renewal time for such permit, the Building Inspector shall make an investigation of each such seasonal or temporary structure for the purpose of ascertaining if the same is so reconstructed and located. The Common Council shall not approve any permit if it shall appear to it that the river filling or any structure proposed to be constructed or erected will materially interfere with navigation on said river or be likely to cause or contribute to the flooding of lands adjacent to the river within the City of Glendale. Nothing herein contained shall be construed to in any way interfere with the jurisdiction of any other authority, whether state or federal, relating to navigable waters. Such permit, as is herein required, shall be in addition to any permit which any other authority has the jurisdiction to require.
- (c) If any tree, structure or other obstruction falls or has fallen from adjacent land into, or partially into, the Milwaukee River, the owner or occupant of such adjacent land shall immediately remove the same from said River.
- (d) In the event such tree, structure or obstruction shall not be so immediately removed, the Director of Public Works shall give written notice to the owner of the lands involved, at his last known address, and to the person in possession of said lands, to remove said tree, structure or other obstruction from the river within

ten (10) days of the giving of such notice. If such tree, structure or other obstruction be not removed at the expiration of said ten (10) days, the Director of Public Works shall remove or cause to be removed such tree, structure or other obstruction, and for this purpose he is authorized to enter onto the land from which the tree, structure or other obstruction has fallen. An accurate record of the expense of removing such tree, structure or other obstruction shall be made and report thereof given to the City Clerk, who shall enter the amount of the expense of such removal against the respective real estate on the next and subsequent tax roll as a special tax against such real estate and the same shall be collected in all respects like other City taxes on real estate.

## 6.3 DRIVEWAYS

### 6.3.1 DRIVEWAY PERMIT REQUIRED

### 6.3.2 DRIVEWAY LOCATION, DESIGN AND CONSTRUCTION REQUIREMENTS

#### 6.3.1 DRIVEWAY PERMIT REQUIRED.

- (a) **Purpose.** For the safety of the general public, the City shall determine the location, size, construction and number of access points to public roadways within the City Limits, through the administration of this Section by the Building Inspector. It is the City's intent to provide safe access to properties abutting public roadways suitable for the property to be developed to its highest and best use, provided that access is not deficient or dangerous to the general public.
- (b) **Permit Required to Construct, Reconstruct, Alter or Enlarge.** No person, firm or corporation shall construct, reconstruct, alter or enlarge any private driveway within the limits of the dedicated portion of any public street under the control and jurisdiction of the City of Glendale without first obtaining a permit therefor as provided by this Chapter.
- (c) **Application.** Application for such permit shall be made to the Director of Public Works on a form provided by said Director of Public Works and shall be accompanied by a drawing accurately depicting the portion of the proposed private driveway to be constructed, reconstructed, altered or enlarged, lying within the dedicated portion of the public street, the dimensions thereof, and a statement of the materials proposed to be used. The applicant shall pay a fee of Fifty Dollars (\$50.00). Upon receipt of the application and the fee if required, unless the proposed private driveway is a part of construction for a building or other structure for which a building permit has been applied for, in which case no additional fee is required, the Director of Public Works shall approve such application if the proposed driveway complies with the terms and conditions of this and any other applicable City ordinance.
- (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 for hire or servicing vehicles, advertising; storage or merchandising of goods within the dedicated portion of the City street, or for any other purpose.
  - (2) The City, notwithstanding the construction of such driveway, reserves the right to make any changes, additions, repairs or relocations within the dedicated portion of the City street at any time, including relocation, reconstruction, widening and maintaining the street without compensating the owner of such private driveway for the damage or destruction of such private roadway.

- (3) The permittee, his successors or assigns, agrees to indemnify and hold harmless the City of Glendale, its officials, officers, agents or employees, against any claim or any cause of action for personal injury or property damage sustained by reason of the exercise of such permit.
- (4) The City does not assume any responsibility for the removal or clearance of snow, ice or sleet or the opening of any windrows of such material upon such portion of such driveway within the dedicated portion of the City street.

### 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.
  - (2) Number. The number of driveways to serve an individual property fronting on a street shall be the minimum deemed necessary by the Director of Public Works 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 (7).
  - (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) Culverts. Driveways shall not obstruct or impair drainage in street ditches or roadside areas. Driveway culverts, where required, shall be adequate for surface water drainage along the street and shall not be less than the equivalent of a 12-inch diameter pipe. The distance between culverts under successive driveways shall not be less than ten (10) feet except as such restricted area is permitted to be filled in pursuant to the provisions of Subsection (7) hereof.
  - (6) Reconstruction of Sidewalks and Curb and Gutter. When the construction of a driveway requires the removal of a curb or gutter the new connections shall be of equivalent acceptable material and curb returns shall be provided or restored in a neat, workmanlike manner. The driveway surface

shall be connected with the highway pavement and the sidewalk, if any, in a neat, workmanlike manner. The driveway construction shall include the replacement of such sidewalk areas which are inadequate or which are or may be damaged by means of vehicle travel across the sidewalk.

- (7) Restricted Areas. The restricted area between successive driveways may be filled in and graded only when the following requirements are complied with:
- a. The filling or draining shall be to grades approved by the Director of Public Works and, except where highway drainage is by means of curb and gutter, water drainage of the area shall be directed away from the street roadbed in a suitable manner.
  - b. Culvert extensions under the restricted area shall be of the same size and of equivalent acceptable material as the culvert under the driveway. Intermediate manholes adequate for clean-out purposes may be required where the total culvert length is excessive.
  - c. Where no street side ditch separates the restricted area from the street roadbed, permanent provision may be required to separate the area from the street roadbed to prevent its use for driveway or parking purposes by construction of a border, curb, rail or posts as may be required by the Director of Public Works.
- (8) Variances. Any of the above requirements may be varied by the Director of Public Works 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-Rural Type Street Cross Section**. 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 portion 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 Director of Public Works in his discretion may permit a driveway of additional width.
  - (2) Return Radii. No return radius projected between the edge of the street cement and the driveway shall be greater than twenty (20) feet. Wherever possible, these radii shall be set pursuant to the regulations provided in Subsections (b)(1), (3) and (4).
  - (3) Angular Placement of Driveways. The angle between the center line of a private driveway providing for two-way traffic and the edge of the street pavement shall not be less than 45°. Where suitable precautions are taken or a one-way operation along divided streets permits only one-way operation of a private driveway, the angle of the entrance driveway to the permittee's property may be decreased. The angle of the exit driveway with the street pavement shall be not less than 45°.



(4) Island Areas.

- a. An island of a minimum length of eight (8) feet shall be maintained between driveways serving the same premises. The length of such island shall be measured along a line ten (10) feet from and parallel to the edge of the public pavement. The permit shall specify that the island area, if less than twenty (20) feet in length or ten (10) feet in width, shall be defined by curbs, posts, boulders, masonry, walls, guard rail or equivalent. Materials used to define the island, except concrete curbs, shall be painted white. The public street side of the island shall not be less than ten (10) feet from the pavement edge. The private property side of the island shall be at the right-of-way line.
- b. The area within five (5) feet of a side lot line shall be a restricted area over which no private driveway may be developed. The 5-foot restricted area shall be measured parallel to the street pavement edge and shall be effective between the right-of-way line and a line five (5) feet from and parallel to the street pavement edge. The purpose of this restricted area is to provide an island area in the event that an adjoining property owner shall apply for a permit to construct a private driveway to his premises.

(c) **Special Requirements for Commercial-Urban Type Street Cross Section.**

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 Director of Public Works in his discretion may permit a driveway of additional width.
- (2) Return Radii. The return radii projected between the line of the face of the street curb and the driveway shall be determined by the Director of Public Works who shall make such determination after considering the type of traffic and the regulations provided in Subsections (c)(1) and (4). In all cases, the entire driveway flare shall fall within the public right-of-way.
- (3) Angular Placement of Driveway. The angle between the center line of the driveway and the curb line shall not be less than 45°.
- (4) Island Areas. Where the public sidewalk is adjacent to the curb, an island of a minimum length of six (6) feet measured along the curb line shall be placed between each entrance to a City street. The curb shall be left intact for the length of this island. Where the public sidewalk is remote from the curb, an island of a minimum length of ten (10) feet measured along the right-of-way line shall be maintained along each entrance to the City Street. All flares shall be tangent to the curb line. A curb length of not less than three (3) feet shall be left undisturbed adjacent to each property line

to serve as an island area in the event an adjoining property owner applies for a driveway permit to serve his property.

- (d) **Special Requirements for Non-Commercial-Rural Type Street Cross Section.** The following regulations are applicable to driveways serving residential or farm properties:
- (1) Width of Drive. No non-commercial driveway or combination of driveways within a dedicated portion of a public street shall have a width less than sixteen (16) feet or greater than twenty (20) feet except as increased by permissible radii.
  - (2) Return Radii. No return radius projected between the edge of the street pavement and the driveway shall be greater than twenty (20) feet.
  - (3) Angular Placement. The center line of that part of the driveway lying within the street right-of-way shall, wherever possible, be approximately at right angles to the pavement.
- (e) **Special Requirements for Non-Commercial Urban Type Street Cross Section.** The following regulations are applicable to driveways serving residential property:
- (1) Width of Driveways. No portion of a non-commercial driveway or combination of driveways located within a dedicated portion of a public street shall have a width greater than sixteen (16) feet measured at right angles to the center line of the driveway, except as increased by permissible radii.
  - (2) Return Radii. The radius of the return connecting the line of the street curb face and the edge of the driveway shall not exceed four (4) feet. In all cases the entire flare shall fall within the right-of-way of the street.
  - (3) 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.
- (f) **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 of the Director of Public Works to the Board of Appeals within twenty (20) days after such refusal to issue such permit is made. Such appeal shall be governed by the provisions of the Glendale Building Code.
- (g) **Prohibited Driveways.**
- (1) No person, firm or corporation shall place, construct, locate in, or cause to be placed, constructed or located in, any obstruction or structure within the limits of any public road, highway or street in the City of Glendale except as permitted by this Section. As used herein the word "structure" includes private driveways, a portion of which extends into any public road, highway or street, and which is in non-conformance with this Chapter.
  - (2) That portion of private driveways or pedestrian paths located within the limits of any public road, highway or street, or alley, shall be constructed of gravel, crushed stone, asphalt, macadam or similar materials, and in no case shall concrete be used, except where approved permanent concrete curb and gutter or sidewalk has been constructed fronting upon the lot or parcel of land which such driveway is to serve.

- (3) The grade of that portion of any private driveway or pedestrian path located within the limits of any public road, highway or street shall be such as shall meet the grade of the existing public roadway at its edge and not cause an obstruction to the maintenance or clearing of such public roadway.
- (4) No 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.
- (5) Notwithstanding the foregoing, the Director of City Services or his/her designate, may issue a permit waiving such requirements subject to such further requirements, limitations, and/or conditions as necessary, in his/her sole discretion, to preserve or facilitate the use of city right-of-way, plowing operations, drainage, road maintenance, the placement of utilities, or any other use of the right-of-way deemed necessary based upon the location of the proposed driveway. In the event of damage to the driveway due to City or other municipal operations, which damage would not have occurred absent construction with the exceptions as allowed, the expense of restoration shall be the obligation of the property owner.

## 6.4 TREES AND SHRUBS

6.4.1	STATEMENT OF POLICY AND APPLICABILITY OF CHAPTER
6.4.2	DEFINITIONS
6.4.3	AUTHORITY OF CITY FORESTER TO ENTER PRIVATE PREMISES
6.4.4	INTERFERENCE WITH CITY FORESTER PROHIBITED
6.4.5	ABATEMENT OF TREE DISEASE NUISANCES
6.4.6	ASSESSMENT OF COSTS OF ABATEMENT
6.4.7	PERMIT FOR PLANTING, MAINTENANCE AND REMOVAL OF TREES AND SHRUBS
6.4.8	PLANTING OF TREES AND SHRUBS
6.4.9	TRIMMING
6.4.10	TREES AND SHRUBBERY OBSTRUCTING VIEW AT INTERSECTIONS OR VIEW OF TRAFFIC SIGNS
6.4.11	REMOVAL OF TREES AND STUMPS
6.4.12	PROHIBITED ACTS
6.4.13	APPEAL FROM DETERMINATIONS AND ORDERS
6.4.14	ADOPTION OF STATE STATUTES

### 6.4.1 STATEMENT OF POLICY AND APPLICABILITY OF CHAPTER.

- (a) **Intent and Purpose.** It is the policy of the City 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 City 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 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.
- (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.

### 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 City 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; infected with a plant disease; infested with injurious insects or pests; 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 location of the edge of the street and the property line.
- (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 designated by the Common Council as authorized to carry out provisions of this Chapter.

#### **6.4.3 AUTHORITY OF CITY FORESTER TO ENTER PRIVATE PREMISES.**

- (a) The Common Council 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 Common Council by this Chapter. The City Forester shall annually be appointed by the Mayor, subject to Council confirmation, at the Council's organizational meetings.
- (b) The City Forester or his authorized representative may enter upon private premises at all reasonable times for the purpose of examining any tree or shrub located upon or over such premises and carrying out any of the provisions of this Chapter. If consent to entry to personal or real properties which are not public buildings or to portions of public buildings which are not open to the public for inspection purposes has been denied, the City Forester shall obtain a special inspection warrant under Wis. Stats. §66.122 and 66.123.

#### **6.4.4 INTERFERENCE WITH THE CITY FORESTER PROHIBITED.**

No person shall interfere with the City Forester or his authorized representative while they are engaged in carrying out any work or activities authorized by this Chapter.

#### 6.4.5 ABATEMENT OF TREE DISEASE NUISANCES.

- (a) **Dutch Elm and Other Tree Diseases a Public Nuisance.** Whereas the Common Council has determined that there are many trees growing on public and private premises within the City, the loss of which would substantially depreciate the value of public and private property, impair the use and enjoyment of public and private premises and erode the tax base of the City, and that the health and life of such trees is threatened by fatal diseases such as Dutch Elm disease, which is spread by the elm bark beetles Scolytus multistriatus (Eichb.) or Hylurgopinus rufipes (Marsh.), the Common Council hereby declares its intention to control and prevent the spread of such disease and the insect pests and vectors which carry such diseases and specifically declares Dutch Elm disease and the elm bark beetles which carry such disease to be public nuisances.
- (b) **Definitions.** As used in this Section, unless otherwise clearly indicated by the context:
- (1) "Public Nuisance" means:
    - a. Dutch Elm disease.
    - b. Elm bark beetles Scolytus multistriatus (Eichb.) or Hylurgopinus rufipes (Marsh.).
    - c. Any living or standing elm tree or part thereof infected with the Dutch Elm disease fungus or in a weakened condition which harbors any of the elm bark beetles, Scolytus multistriatus (Eichb.) or Hylurgopinus rufipes (Marsh.).
    - d. Any dead elm tree or part thereof, including logs, branches, stumps, firewood or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle destroying concentrate.
    - e. Any other deleterious or fatal tree disease.
    - f. Any tree or part thereof which by reason of its condition and location is hazardous or dangerous to persons and property using or upon any public street, sidewalk, alley, park or other public place, including the terrace strip between curb and lot line.
    - g. Any tree or part thereof which is infested by the eastern tent caterpillar or other defoliating larvae.
  - (2) "Public property" means owned or controlled by the City, including without limitation because of enumeration, public sites, parks, playgrounds, streets, alleys, sidewalks, boulevards, and the terrace strip between the lot line and the curb or improved portion of any public way.
  - (3) "Person" means person, firm or corporation.
- (c) **Inspection.**
- (1) The City Forester, pursuant to Wis. Stats. §27.09, shall have the right to inspect trees, vines, hedges, plants, logs and branches within the City of Glendale to determine whether the same be healthy or diseased. The City Forester shall have the right to enter upon any private property, at reasonable times, to make such examinations.

- (2) Whenever necessary to determine the existence of Dutch Elm disease or elm bark beetles in any tree, the person inspecting such tree shall remove or cut specimens from the tree in such manner as to avoid fatal injury thereto and deliver such specimens to the Forester who shall forward them to the Wisconsin Department of Agriculture at Madison for analysis to determine the presence of such nuisances.
  - (3) The Forester and his/her agents or employees shall have authority to enter upon private premises at reasonable times for the purpose of carrying out any of the provisions of this Section.
- (d) **Abatement of Nuisances; Duty of Forester.**
- (1) The Forester shall order, direct, supervise and control the abatement of public nuisances as defined in this Section by spraying, removal, burning or by other means which he determines to be necessary to prevent as fully as possible the spread of Dutch Elm disease fungus, other deleterious tree diseases or the insect pests or vectors known to carry such diseases.
  - (2) Whenever the Forester after inspection or examination shall determine that a public nuisance as herein defined exists on public property in the City, the City Forester shall immediately abate or cause the abatement of such nuisance in such manner as to destroy or prevent as fully as possible the Elm disease, other deleterious tree diseases, or the inspect pests or vectors known to carry such disease fungus.
  - (3)
    - a. When the Forester shall determine with reasonable certainty that a public nuisance exists upon private premises, he shall immediately serve or cause to be served personally or by registered mail upon the owner of such property, if he can be found, or upon the occupant thereof, a written notice of the existence of such nuisance and of a time and place for a hearing, not less than fourteen (14) days after service of such notice, on the abatement action to be taken. Such notice shall describe the nuisance and recommend procedures for its abatement, and shall further state that unless the owner shall abate the nuisance in the manner specified in the notice, or shall appear at the hearing to show that such nuisance does not exist or does not endanger the health of trees in the City, the Forester shall cause the abatement thereof at the expense of the property served. If the owner cannot be found, such notice shall be given by publication in a newspaper of general circulation in the City.
    - b. If, after hearing held pursuant to this Subsection, it shall be determined by the Common Council that a public nuisance exists, it shall forthwith order the immediate abatement thereof. Unless the property owner abates the nuisance as directed within five (5) days after such hearing, the Forester shall proceed to abate the nuisance and cause the cost thereof to be assessed against the property in accordance with the procedures provided in this Section. The Forester may extend the time allowed the property

owner for abatement work but not to exceed ten (10) additional days.

(e) **Spraying.**

- (1) Whenever the Forester shall determine that any tree or part thereof is infected with a deleterious or fatal tree disease or is in a weakened condition or harbors elm bark beetles, he may cause all trees within a one thousand (1,000) foot radius thereto to be sprayed with an effective disease destroying concentrate or other insecticide.
- (2) In order to facilitate the work and minimize the inconvenience to the public of any spraying operations conducted under this Section, the Forester shall cause to be given advance public notice of such operations by newspaper, radio, television, public service announcements or other effective means and shall also cause the posting of appropriate warning notices in the areas and along the streets where trees are to be sprayed at least twenty-four (24) hours in advance of spraying. When any residue or concentrate from municipal spraying operations can be expected to be deposited on any public street, the Forester shall also notify the Chief of Police, who shall take all necessary steps to make and enforce temporary parking and traffic regulations on such streets as conditions require. temporary "no parking" notices shall be posted in each block of any affected street at least twenty-four (24) hours in advance of spraying operations.
- (3) When appropriate warning notices and temporary "no parking" notices have been given and posted in accordance with Subsection (b) of this Section, the City shall not allow any claim for damages to any vehicle caused by such spraying operations.
- (4) When trees on private property are to be sprayed, the Forester shall notify the owner of such property and proceed in accordance with the requirements of Subsection (d)(3).

**6.4.6 ASSESSMENT OF COSTS OF ABATEMENT.**

- (a) The entire cost of abating any public nuisance or spraying trees as defined herein shall be charged to and assessed against the parcel or lot abutting on the street, alley, terrace, boulevard or parkway upon or in which such tree is located or the parcel or lot upon which such tree stands in accordance with Wis. Stats. §66.60(16) or §27.09. The cost of abating any such nuisance or part thereof which is located in or upon any park shall be borne by the City.
- (b) The cost of abating a public nuisance or spraying elm trees or elm wood located on private premises when done at the direction and under the supervision of the Forester shall be assessed to the property on which such nuisance, tree or wood is located as follows:
  - (1) The Forester shall keep a strict account of the cost of such work or spraying and the amount chargeable to each lot or parcel and shall report such work, charges, description of lands to which charged and names and



addresses of the owners of such lands to the Common Council on or before October 15 of each year.

- (2) Upon receiving the Forester's report, the Council shall hold a public hearing on such proposed charges, giving at least fourteen (14) days' advance notice of the time, place and purpose of such hearing to interested persons by publication in a newspaper of general circulation in the municipality and by mail to the owner of each property proposed to be charged. Each property owner shall be notified of the amount proposed to be assessed against his premises and the work for which such charge is being made.
- (3) After such hearing, the Common Council shall affirm, modify and affirm or disapprove such assessments by resolution and shall cause a copy thereof to be published. Upon adoption and publication of such resolution, assessments made thereby shall be deemed final.
- (4) The City Clerk shall mail notice of the amount of such final assessment to each owner of property assessed at his last-known address, stating that, unless paid within thirty (30) days of the date of the notice, such assessment will be entered on the tax roll as a 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 assessment.
- (5) The city hereby declares that, in making assessments under this Section, it is acting under its police power, and no damages shall be awarded to any owner for the destruction of any diseased or infested tree or wood or part thereof.

#### **6.4.7 PERMIT FOR PLANTING, MAINTENANCE AND REMOVAL OF TREES AND SHRUBS.**

- (a) **Permit Required.** No person, except upon order of the City Forester, shall plant or remove, or perform major alterations as determined by the Forester on a tree or shrub in the public right-of-way terrace area or cause such act to be done by others without first obtaining a written permit for such work from the City Forester as herein provided. The applicant shall comply with the planting standards of Sec. 6-4-8.
- (b) **Permit Exemptions.** No permit shall be required to cultivate, fertilize or water trees or shrubs or for work by City personnel on park properties. No permit is necessary to plant trees inside the property line.
- (c) **Permit Requirements and Conditions.** If the City Forester determines that the proposed work or planting described in an application for a permit is necessary and in accord with the purposes of this Chapter, taking into account the safety, health and welfare of the public, location of utilities, public sidewalk, driveways and street lights, general character of the area in which the tree or shrub is located or proposed to be located, type of soil, characteristics and physiological need of the genus, species and variety of tree or shrub, he shall have the Forester issue a permit to the applicant.

- (d) **Permit Form; Expiration; Inspection.** Every permit shall be issued by the City Forester on a standard form and shall include a description of the work to be done and shall specify the genus, species and variety, size, nursery grade and location of trees or shrubs to be planted, if any. Any work under such permit must be performed in strict accordance with the terms thereof and the provisions of this Chapter. Permits issued under this Section shall expire six (6) months after date of issuance. There will be no charge for this permit.
- (e) **Permits to Public Utilities.**
- (1) Whenever a permit is issued under this Section to a public utility to remove, trim, prune, cut, disturb, alter or perform surgery on any public tree or shrub, the City Forester shall limit the work to be done to the actual necessities of the utility and may assign an inspector to supervise the work done under the provisions of the permit. The expense of such inspection or supervision shall be charged to the utility at the usual City rate.
  - (2) A public utility may secure an annual working agreement with the City Forester's office which gives the City Forester the authorization to supervise and direct work associated with trees and shrubs.

#### 6.4.8 PLANTING OF TREES AND SHRUBS.

- (a) **Purpose.** The Common Council hereby states its determination that the planting, care and protection of the trees within the City is desirable for the purposes of beauty, shade, comfort, noise abatement and economic betterment, and hereby encourages all persons to assist in a program of tree planting, care and protection.
- (b) **Tree Planting Program.** The City Forester shall recommend to the Common Council a program for tree planting, care and protection for public parks. The Council shall also encourage the planting, care and protection of trees and shrubs on private premises within the City.
- (c) **Planting.**
- (1) The size and genus, species and variety of trees and shrubs to be planted in public areas and boulevards and the manner of planting shall be submitted to the City Forester for approval before commencement of such work. The permit application process is required in Section 6-4-7.
  - (2) There shall be a minimum distance of sixteen (16) feet and a recommended distance of twenty-five (25) to fifty (50) feet between terrace area trees depending upon the size of tree and other factors. Terrace trees shall be planted equal distance between the sidewalk or proposed sidewalk and back of the curb or proposed back of curb. In terrace areas less than three (3) feet wide, planting will not be permitted. Terrace area trees shall be a minimum of twenty-five (25) feet from an intersection.
  - (3) Evergreen trees shall not be planted in a terrace area.

- (4) It shall be unlawful to plant or maintain shrubbery, ground cover or other plants not considered to be a deciduous leaf tree within terrace areas whose growth is in excess of eight (8) inches in height above the top of the nearest curb.
- (5) Tree, grates shall be provided for terrace trees surrounded by concrete by the adjacent property owner and shall be level with adjacent concrete.
- (d) **Unlawfully Planted Trees.**
  - (1) Trees, plants or shrubs planted within any terrace or planting easement without the authorization and approval of the Forester may be removed. The Forester shall notify the abutting owner in writing, listing the unlawfully planted trees, plants or shrubs, ordering their removal, and establishing a reasonable time within which such removal shall be accomplished. In the event that removal is not to be accomplished within the time specified, the City may remove such trees, plants or shrubs and assess the costs thereof to the owner.
  - (2) No person shall plant Cottonwood or Box Elder trees within the City.
- (e) **Frames.** Any person, adjacent to whose land any shade or ornamental tree or shrub is growing in any street, may, for the propose of protecting such tree or shrub, surround the same with a suitable box or frame for protection, but all such work shall be performed under the supervision and direction of the City Forester.

#### 6.4.9 TRIMMING.

- (a) 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 City 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.
- (b) The necessity of the pruning may be determined by the City Forester.
- (c) Clearance from sidewalk to lower branches shall not be less than ten (10) feet. All trees standing upon private property in the City, 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 ten (10) 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.
- (d) Trimming or pruning of more than two-thirds (2/3) of the crown shall be considered to be a major alteration and shall require a permit from the City Forester.

#### **6.4.10 TREES AND SHRUBBERY OBSTRUCTING VIEW AT INTERSECTION OR VIEW OF TRAFFIC SIGNS.**

- (a) 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 City 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) 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 City. It shall be the duty of every owner of such tree, bush, shrubbery or vegetation to remove such obstruction.
- (c) 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 City Forester may order, by written notice, 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, to take such necessary steps, the City Forester and/or Public Works Department employees shall order the City employees to remove the interference. 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) Any person who is an owner or occupant or firm or corporation failing to obey the written notice of the City Forester as specified in Subsection (c) above shall, upon conviction thereof, be subject to a forfeiture as established in Section 1-1-7 of this Code of Ordinances.

Cross Reference: Section 13-1-90.

#### **6.4.11 REMOVAL OF TREE AND STUMPS.**

- (a) **Dangerous, Obstructive and Infected Trees.** Any tree or part thereof, whether alive or dead, which the City Forester or Director of Public Works shall find to be infected, hazardous, or a nuisance, so as to present an imminent danger or risk of harm to persons in the public way or to public property, within the City, whether growing upon public or private premises, shall be removed, trimmed or treated by the owner of the property upon or adjacent to which such tree or part thereof is located. The City Forester or Director of Public Works shall give written notice to said owner to remedy the situation which shall be served personally or posted upon the affected tree. Such notice shall specifically state the period of time within which the action must be taken, which shall be within not less than twenty-four (24) hours nor more than fourteen (14) days as determined by the City Forester or Director of Public Works on the basis of the seriousness

of the condition of the tree or damage to public. If the owner shall fail to remove, treat or trim said tree within the time limited, the City Forester or Director of Public Works shall cause that tree to be removed, treated or trimmed and shall report the full cost thereof to the City Clerk, who shall thereupon enter such cost as a special charge against the property.

- (b) **Removal Standards.** In cutting down trees located in public and terrace areas, the tree must be removed with the root stump grubbed out, or ground out to a depth of at least nine (9) inches below grade measured in a straight line with the normal grade of sidewalk to top of nine (9) inches below grade measured as a straight line, normal grade of sidewalk to top of curb. All wood and debris must be removed from the street prior to the end of each working day and all holes shall be filled to normal grade level with topsoil as soon as practicable.
- (c) **Private Removal.** No person, firm, organization or corporation shall plant, injure, trim, remove or destroy any tree or shrub located in or upon any public place, until a permit shall have been issued by the City Forester. Such permit shall be issued only when the removal, trimming or cutting of the tree or shrub is necessary, as determined by the City Forester, because of disease, damage, hazardous condition, and/or location, or its location is such that substantial detriment is done to the property upon which the tree or shrub stands, or property abutting the same. Such permit shall expressly state the premises upon which the tree stands and the location of the tree thereon.

#### 6.4.12 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 City 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 City may tie temporary "no parking" signs to trees when necessary in conjunction with street improvement work, tree maintenance work or parades.

- (6) Cause or encourage any fire or burning near or around any tree.
- (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 City Forester.
- (c) **Interference with Forester.** No person shall:
  - (1) Interfere with or prevent any acts of the Forester or his agents or employees while they are engaged in the performance of duties imposed by this Section.
  - (2) Refuse to permit the Forester or his duly authorized representative to enter upon his premises at reasonable times to exercise the duties imposed by this Section.
- (d) **Refusal to Abate Nuisance.** Permits any public nuisance to remain on any premises owned or controlled by him when ordered by the Forester to abate such nuisance.

#### **6.4.13 APPEAL FROM DETERMINATIONS OR ORDERS.**

Any person who receives a determination or order under this Chapter from the City Forester and objects to all or any part thereof shall have the right to appeal such determination or order, subject to the provisions of Chapter 68, Wis. Stats., to the Common Council within seven (7) days of receipt of the order and the Common Council shall hear such appeal within thirty (30) days of receipt of written notice of the appeal. After such hearing, the Common Council may reverse, affirm or modify the order or determination appealed from and the grounds for its decision shall be stated in writing. The Common Council shall, by letter, notify the party appealing the order or determination of its decision within ten (10) days after the hearing has been concluded. The Council shall file its written decision with the City Clerk.

#### **6.4.14 ADOPTION OF STATE STATUTES.**

Wis. Stats. §27.09 and §86.03, are hereby adopted and incorporated herein by reference.

State Law Reference: Wis. Stats. §27.09 and 86.03.

- 6.5**                    **STORMWATER MANAGEMENT GOVERNING PROPERTY DEVELOPMENT AND DEVELOPED AND VACANT PROPERTY**
  
- 6.5.1**                AUTHORITY FOR STORMWATER MANAGEMENT REGULATIONS GOVERNING PROPERTY DEVELOPMENT
- 6.5.2**                FINDINGS OF FACT REGARDING STORMWATER MANAGEMENT REGULATIONS GOVERNING PROPERTY DEVELOPMENT
- 6.5.3**                PURPOSE AND INTENT OF STORMWATER MANAGEMENT REGULATIONS GOVERNING PROPERTY DEVELOPMENT
- 6.5.4**                DEFINITIONS APPLICABLE TO STORMWATER MANAGEMENT REGULATIONS GOVERNING PROPERTY DEVELOPMENT
- 6.5.5**                APPLICABILITY AND JURISDICTION OF STORMWATER MANAGEMENT REGULATIONS GOVERNING PROPERTY DEVELOPMENT
- 6.5.6**                DESIGN CRITERIA, STANDARDS AND SPECIFICATIONS GOVERNING PROPERTY DEVELOPMENT
- 6.5.7**                STORMWATER MANAGEMENT STANDARDS FOR REGULATIONS GOVERNING PROPERTY DEVELOPMENT
- 6.5.8**                PERMITTING REQUIREMENTS, PROCEDURES AND FEES
- 6.5.9**                STORMWATER MANAGEMENT PLANS
- 6.5.10**              MAINTENANCE AGREEMENT
- 6.5.11**              FINANCIAL GUARANTEE
- 6.5.12**              FEE SCHEDULE
- 6.5.13**              ILLICIT DISCHARGES AND UNAUTHORIZED CONNECTIONS
- 6.5.14**              ENFORCEMENT AND PENALTIES
- 6.5.15**              APPEALS
- 6.5.16**              STORMWATER MANAGEMENT SYSTEM GOVERNING DEVELOPED AND VACANT PROPERTY
- 6.5.17**              SEVERABILITY

**6.5.1 AUTHORITY FOR STORMWATER MANAGEMENT REGULATIONS GOVERNING PROPERTY DEVELOPMENT.**

- (a) This Chapter is adopted by the Common Council of the City of Glendale under the authority granted by Wis. Stats. §62.234. This Chapter supersedes all conflicting and contradictory stormwater management regulations previously enacted under Wis. Stats. §62.23. Except as specifically provided for in Wis. Stats. §62.234, §62.23, applies to this Chapter and to any amendments to this Chapter.
- (b) The provisions of this Chapter are deemed not to limit any other lawful regulatory powers of the Common Council.
- (c) The Common Council hereby designates the Department of Public Works to administer and enforce the provisions of this Chapter.
- (d) The requirements of this Chapter do not pre-empt more stringent stormwater management requirements that may be imposed by WPDES Stormwater Permits issued by the Wisconsin Department of Natural Resources under Wis. Stats. §147.021.

**6.5.2 FINDINGS OF FACT REGARDING STORMWATER MANAGEMENT REGULATIONS GOVERNING PROPERTY DEVELOPMENT.**

The Common Council finds that uncontrolled stormwater runoff from land development activity has a significant impact upon water resources and the health, safety and general welfare of the community, and diminishes the public enjoyment and use of natural resources. Specifically, uncontrolled stormwater runoff can:

- (a) Degrade physical stream habitat by increasing stream bank erosion, increasing stream bed scour, diminishing groundwater recharge, and diminishing stream base flows;
- (b) Diminish the capacity of lakes and streams to support fish, aquatic life, recreational, and water supply uses by increasing loadings of nutrients and other urban pollutants;
- (c) Alter wetland communities by changing wetland hydrology and by increasing pollutant loads;
- (d) Reduce the quality of groundwater by increasing pollutant loading;
- (e) Threaten public health, safety, property, and general welfare by overtaxing storm sewers, drainage ways, and other minor drainage facilities;
- (f) Threaten public health, safety, property, and general welfare by increasing major flood peaks and volumes; and
- (g) Undermine floodplain management efforts by increasing the incidence and levels of flooding.
- (h) Aggravate excessive infiltration and inflow of water into sanitary sewer connections during peak storm events causing the conveyance system to surcharge, overflow or backup into basements.



### 6.5.3 PURPOSE AND INTENT OF STORMWATER MANAGEMENT REGULATIONS GOVERNING PROPERTY DEVELOPMENT.

- (a) **Purpose.** The general purpose of this Chapter is to set forth stormwater requirements and criteria, which will diminish the threats to public health, safety, welfare, and the aquatic environment due to runoff of stormwater from land development activity. This chapter integrates federal and state construction post-construction site stormwater water quality standards with duties to reasonably manage the quantity of water run-off for regional flood abatement. This chapter implements the Milwaukee Metropolitan Sewerage District rules on release rates for development creating more than a de minimis amount of new impervious surface in order to reduce the probability of increased regional floods. Specific purposes are to:
- (1) Further the maintenance of safe and healthful conditions;
  - (2) Prevent and control the adverse effects of stormwater, prevent and control soil erosion, prevent and control water pollution, protect spawning grounds, fish, and aquatic life;
  - (3) Assure the safe capacity of existing drainage facilities and receiving water bodies; prevent undue channel erosion; control increases in the scouring and transportation of particulate matter, prevent conditions that endanger downstream property; and
  - (4) Control building sites, placement of structures, and land uses, and promote sound economic growth.
- (b) **Intent.** It is the intent of the Common Council that this Chapter manages the long term, post-construction stormwater discharges from land development activities. The Common Council recognizes that the preferred method of addressing stormwater management problems and needs is through the preparation of comprehensive stormwater management system plans for subwatershed areas which are designed to meet the purpose and intent of this Chapter. Where such system plans have been developed and approved by the Common Council, it is the intent that all land development activities will include stormwater management measures that meet performance standards set forth in those approved plans. Where such stormwater management system plans have not been developed or approved by the Common Council, it is the intent of the Common Council that the generic stormwater management standards set forth in Section 6.5.7 this Chapter be applied unless otherwise excepted by the Public Works Director.

### 6.5.4 DEFINITIONS APPLICABLE TO STORMWATER MANAGEMENT REGULATIONS GOVERNING PROPERTY DEVELOPMENT.

- (a) **Agricultural Activity.** The planting, growing, cultivating, and harvesting of crops; growing and tending of gardens; and the harvesting of trees.
- (b) **Business Day.** A day during which both the offices of the City and of the permit holder are routinely and customarily open for business.

- (c) **BMP.** (Best Management Practices) Structural or non-structural measures, practices, techniques or devices employed to avoid or minimize sediment or pollutants carried in runoff to waters of the state; or manage the rate or volume of runoff.
- (d) **Cease and Desist Order.** A court issued order to halt land-developing activity that is being conducted without the required permit.
- (e) **Common Plan of Development or Sale.** All lands included within the boundary of a certified survey or subdivision plat created for the purpose of development or sale of property where multiple separate and distinct land developing activity may take place at different times on different schedules.
- (f) **Design Storm.** A hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency, and total rainfall depth.
- (g) **Discharge Volume.** The quantity of runoff discharged from the land surface as the result of a rainfall event.
- (h) **Division of Land.** The creation from one parcel of two (2) or more parcels or building sites of one (1) or fewer acres each in area, where such creation occurs at one time or through the successive partition within a five (5) year period.
- (i) **Extraterritorial.** The unincorporated area within three (3) miles of the corporate limits of a first, second, or third class city, or within one and one-half miles of a fourth class city or village.
- (j) **Fee in Lieu.** A payment of money to the City of Glendale Stormwater Management System Trust Fund in place of meeting all or part of the stormwater performance standards required by this Chapter.
- (k) **Financial Guarantee.** A performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the City of Glendale by the permit holder to assure that requirements of the Chapter are carried out in compliance with the stormwater management plan.
- (l) **Gross Aggregate Area.** The total area, in acres, of all land located within the property boundary containing the land development activity.
- (m) **Groundwater Enforcement Standard.** A numerical value expressing the concentration of a substance in groundwater which is adopted under Wis. Stats. §160.07, and in NR 140.10 or Wis. Stats. §160.09, and NR 140.12, Wis. Adm. Code.
- (n) **Groundwater Preventive Action Limit.** A numerical value expressing the concentration of a substance in groundwater which is adopted under Wis. Stats. §160.15, and NR 140.10, 140.12 or 140.20, Wis. Adm. Code.
- (o) **Impervious Surface.** Any pavement or structural element that prevents rain, surface water runoff, or melting snow from infiltrating into the ground below, including, but not limited to, roofs and paved roads, driveways, and parking lots.
- (p) **Infiltration.** The process by which rainfall or surface runoff percolates or penetrates into the underlying soil.
- (q) **In-fill area or Development.** An undeveloped area of land located within existing development.

- (r) **Land Development Activity.** Any construction or redevelopment of buildings, roads, parking lots, paved and unpaved storage areas, and similar facilities, but not including agricultural activity.
- (s) **Maintenance Agreement.** A legal document that is filed with the Milwaukee County Register of Deeds as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.
- (t) **Non-Storm Discharge.** A discharge to the storm sewer system created by some process other than stormwater runoff.
- (u) **Non-Structural Measure.** A practice, technique, or measure to reduce the volume, peak flow rate, or pollutants in stormwater that does not require the design or installation of fixed stormwater management facilities.
- (v) **Off-Site.** Located outside the property boundary described in the permit application for land development activity.
- (w) **On-Site.** Located within the property boundary described in the permit application for the land development activity.
- (x) **Other Than Residential Development.** Development of the following land uses; commercial; industrial; government and institutional; recreation; transportation, communication, and utilities.
- (y) **Peak Flow Discharge Rate.** The maximum rate at which a unit volume of stormwater is discharged.
- (z) **Permit.** A written authorization made by the City to the applicant to conduct land development activities.
- (aa) **Permit Administration Fee.** A sum of money paid to the City by the permit applicant for the purpose of recouping the expenses incurred by the City in administering the permit.
- (bb) **Pervious Surface.** A surface that infiltrates rainfall during a large portion of the design rainfall event. Well-managed lawns, fields, and woodlands are examples of pervious surfaces.
- (cc) **Post-Construction Stormwater Discharge.** Any stormwater discharged from a site following the completion of land disturbing construction activity and final site stabilization.
- (dd) **Post-Development Condition.** The extent and distribution of land cover types, anticipated to occur under conditions of full development, that will influence stormwater runoff and infiltration.
- (ee) **Pre-Development Condition.** The extent and distribution of land cover types present before the initiation of land development activity, assuming that all land uses prior to the development activity are managed in an environmentally sound manner.
- (ff) **Pre-Treatment.** The treatment of stormwater prior to its discharge to the primary stormwater treatment practice in order to reduce pollutant loads to a level compatible with the capability of the primary practice.
- (gg) **Recreational trail** means a path that is:
  - (1) distinctly set apart from a roadway, street, or sidewalk;
  - (2) designed for activities such as jogging, walking, hiking, bird-watching, bicycle riding, roller skating, or similar recreational activities not involving the use of motorized vehicles; and

- (3) not a sidewalk according to Wis. Stats. §340.01(58).
- (hh) **Residential Development.** That which is created to house people, including residential dwellings, as well as all attendant portions of the development including lawns, driveways, sidewalks, garages, and access streets. This type of development includes single-family, multi-family, apartments, and trailer parks.
- (ii) **Site Restriction.** Any physical characteristic which limits the use of a stormwater best management practice as prescribed in the “Wisconsin Storm Water Manual, Part 2; Technical Design Guidelines for Stormwater Best Management Practices.”
- (jj) **Stop Work Order.** An order issued by the City which requires that all construction activity on the site be stopped.
- (kk) **Stormwater Management Plan.** A document that identifies what actions will be taken to reduce stormwater quantity and pollutant loads from land development activity to levels meeting the purpose and intent of this Chapter.
- (ll) **Stormwater Management System Plan.** A comprehensive plan developed to address stormwater drainage and non-point source pollution control problems on a watershed or subwatershed basis, and which meets the purpose and intent of this Chapter.
- (mm) **Stormwater Runoff.** That portion of the precipitation fall during a rainfall event, or that portion of snow-melt, that runs off the surface of the land and into the natural or artificial conveyance or drainage network.
- (nn) **Structural Measure.** Source area practices, conveyance measures, and end-of-pipe treatment that are designed to control stormwater runoff pollutant loads, discharge volumes, and peak flow discharge rates.
- (oo) **Waters of the State.** Those portions of Lake Michigan and Lake Superior within the boundaries of Wisconsin, and all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems and other surface water or groundwater, natural or artificial, public or private, within the state or its jurisdiction.
- (pp) **Wetlands.** An area where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions. These wetlands include natural, mitigation, and restored wetlands.
- (qq) **Wetland Functional Value.** The type, quality, and significance of the ecological and cultural benefits provided by wetland resources, such as: flood storage, water quality protection, groundwater recharge and discharge, shoreline protection, fish and wildlife habitat, floral diversity, aesthetics, recreation, and education,
- (rr) **WPDES Stormwater Permit.** A permit issued by the Wisconsin Department of Natural Resources under Wis. Stats. §147.021, that authorizes the point source discharge of stormwater to waters of the state.

## 6.5.5                    **APPLICABILITY AND JURISDICTION OF STORMWATER MANAGEMENT REGULATIONS GOVERNING PROPERTY DEVELOPMENT.**

- (a) **Applicability.** This Section applies as set forth below to land development activities that meet applicability criteria specified in this Section. This Section also applies as set forth below to land development activities that are smaller than the minimum applicability criteria if such activities are part of a larger common plan of development or sale that meets any of the following applicability criteria, even through multiple separate and distinct land development activities may take place at different times on different schedules:
- (1) Applicability requirements listed in the current publication of Chapter 13 (Surface Water and Stormwater) of the Milwaukee Metropolitan Sewerage District Rules shall be enforced for Discharge Quantity management requirements, as set forth in Sec. 6.5.7 paragraphs (a), (b), and (c);
  - (2) Applicability requirements listed in the current publication of Chapter NR 151 Runoff Management, Subchapter III - Non-Agricultural Performance Standards shall be enforced for Discharge Quality management requirements as set forth in Sec. 6.5.7 paragraph (d);
  - (3) For phased developments, the cumulative effect of all phases shall be considered.
  - (4) Land development activity of any size that, in the opinion of the Department of Public Works, is likely to result in stormwater runoff which exceeds the safe capacity of existing drainage facilities, storage facilities, or receiving surface waters, which may cause surcharging and increase flooding risks, which causes undue channel erosion, unreasonably increases surface water pollution by scouring or the transportation of particulate matter, or endangers downstream property on a surface water shall be subject to Sec. 6.5.7 paragraphs (a), (b), (c) and (d).
- (b) **Jurisdiction.** The Chapter applies to land development activities within the boundaries of the City of Glendale, Wisconsin, and within its extraterritorial plat approval jurisdiction under Chapter 236, Wis. Stats.
- (c) **Exemptions from Discharge Quantity Requirements.**
- (1) Exemptions from Discharge Quantity requirements shall be those listed in the current publication of Chapter 13 (Surface Water and Stormwater) of the Milwaukee Metropolitan Sewerage District Rules.
- (d) **Exemptions from Discharge Quality Requirements.**
- (1) Exemptions from Discharge Quality requirements shall be those listed in Chapter NR 151 Runoff Management, Subchapter III—Non-Agricultural Performance Standards.

### **6.5.6 DESIGN CRITERIA, STANDARDS AND SPECIFICATIONS, GOVERNING PROPERTY DEVELOPMENT.**

Unless prior authorization is given by the Glendale Department of Public Works, the following methods shall be used in meeting the requirements of this Chapter:

- (a) **Water Quantity Components.** The following methods shall be used in designing components of stormwater structures needed to meet the water quantity standards of this Chapter:
  - (1) Peak flow sharing components of stormwater structures shall be designed in accordance with standard engineering practices.
  - (2) Runoff volumes and peak flow rates used in designing the water quantity components of stormwater structures shall be based on the principles of the document entitled "Urban Hydrology for Small Watersheds" (Technical Release 55: Engineering Division, Soil Conservation Service, United States Department of Agriculture, June 1992).
  - (3) The most recent rainfall data available from NOAA Atlas 14, Precipitation-Frequency Atlas of the US, Volume 8, Version 2.0: Midwestern States, Published in 2013, or more protective data shall be the basis for the analyses required by this ordinance.
- (b) **Water Quality Components.** The following methods shall be used in designing components of stormwater structures needed to meet the water quality standards of this Chapter:
  - (1) Practices shall be designed in accordance with the methods set forth in the latest edition of the "Wisconsin Post-Construction Design Technical Standards" as published and amended from time-to-time by the State of Wisconsin Department of Natural Resources.

### **6.5.7 STORMWATER MANAGEMENT STANDARDS.**

- (a) **Stormwater Management Criteria**
  - (1) The site-specific stormwater management system plan required under the provisions of this Section shall be designed in accordance with good engineering practice. The specific methods to be used in the calculation of peak rates of discharge, volumes, and water quality conditions and of the hydraulic capacities of storage and conveyance facilities shall be left to the judgment of the professional engineer preparing the plan subject, however, to the approval of the City.
  - (2) The site-specific stormwater management system plan shall be designed such that natural topography and land cover features such as swales, natural streams, channels, drainage ways, natural depressions, native soil infiltrating capacity, and natural groundwater recharge areas shall be preserved and used to the extent practicable.
- (b) **Stormwater Discharge Quantity Standards**
  - (1) The conveyance and storage facilities incorporated into the site-specific stormwater management system plan required under this Section shall be

designed as an integral part of complementary minor and major subsystem.

- (2) The minor subsystem, generally consisting of the proposed on-site stormwater conveyance facilities such as storm sewers and storm drains, shall be designed to avoid nuisance flooding of streets and yards and shall accommodate the peak rate of runoff from rainfall events up to and including the 10-year recurrence interval event. The rainfall intensity shall be determined based on appropriate times of concentration from relationships established and published by the NOAA Atlas 14, Precipitation-Frequency Atlas of the US, Volume 8, Version 2.0: Midwestern States, Published in 2013..
  - (3) The complementary major subsystem shall consist of the public streets and interconnected flow paths to the streets and from the streets to receiving streams and watercourses. The major system shall be designed to accommodate peak rates of discharge from rainfall events up to and including the 100-year recurrence interval event without inundation of exposed basements, building basement window wells, basement entryways, or the first floors of buildings, utilizing a one-foot freeboard.
  - (4) Unless otherwise provided for, all land development activities subject to this Section shall establish on-site management practices to control the peak flow rates of stormwater discharged from the site. On-site management practices shall be used to meet the minimum performance standards as set forth in this ordinance.
- (c) **Discharge Quantity Management**
- (1) Discharge Quantity Management requirements shall be those listed in the current publication of Chapter 13 (Surface Water and Stormwater) of the Milwaukee Metropolitan Sewerage District Rules.
- (d) **Discharge Quality Management**
- (1) Discharge Quality Management requirements shall be those listed in Chapter NR 151 Runoff Management, Subchapter III - Non-Agricultural Performance Standards.
- (e) **Infiltration.**
- (1) Infiltration requirements shall be those listed in Chapter NR 151 Runoff Management, Subchapter III - Non-Agricultural Performance Standards.
- (f) **Infiltration Exclusions.**
- (1) Infiltration Exclusions shall be those listed in Chapter NR 151 Runoff Management, Subchapter III - Non-Agricultural Performance Standards.
- (g) **Infiltration Exemptions.**
- (1) Infiltration Exemptions requirements shall be those listed in Chapter NR 151 Runoff Management, III - Non-Agricultural Performance Standards.
- (h) **Exceptions to Water Quantity and Quality Management Requirements.** The City may establish stormwater management requirements either more or less stringent than those set forth under Section 6-5-7 (a) through (d), provided that at least one of the following conditions apply:
- (1) The Department of Public Works determines that a higher level of protection is needed to protect sensitive resources.

- (2) The Department of Public Works determines that a higher level of protection from flooding is required to protect the public health and safety.
- (3) The Department of Public Works determines that more restrictive discharge controls are needed because existing downstream conveyance or storage facilities are or will be rendered inadequate as a result of development activity.
- (4) The Department of Public Works determines that the land development activity is covered by an approved stormwater management system plan that contains management requirements consistent with the purpose and intent of this Section.
- (5) Provisions are made to manage stormwater by an off-site facility, provided that all of the following conditions for the off-site facility are met:
  - a. The facility is in place,
  - b. The facility is designed and adequately sized to provide a level of stormwater control equal to or greater than would be provided by on-site practices meeting the requirements of this Section.
  - c. The facility has a legally obligated entity responsible for its long-term operation and maintenance.
  - d. The Department of Public Works finds that meeting the minimum on-site management requirements of this Section is not feasible due to space or site restrictions.
- (i) **Fee in Lieu of On-Site Stormwater Management Practices.** Where the City waives all or part of the minimum on-site stormwater management requirements under Section 6-5-7(e), the applicant may be required to pay a fee in an amount determined in negotiation with the Department of Public Works. In setting the fee for land development projects, the Public Works Director shall consider an equitable distribution of the cost for land, engineering design, construction, and maintenance of stormwater management practices needed to serve the land development.
- (j) **Fueling and Vehicle Maintenance Areas.** Fueling Area Performance Standard shall be those listed in Chapter NR 151 Runoff Management, Subchapter III - Non-Agricultural Performance Standards.
- (k) **Protective Areas.**
  - (1) Protective Area Performance Standard shall be those listed in Chapter NR 151 Runoff Management, Subchapter III - Non-Agricultural Performance Standards.
- (l) **Removal of Impervious Surfaces.**

If impervious surface is removed after the effective date of this ordinance, the Department of Public Works may reduce the degree of runoff management necessary for new impervious surface within the same watershed or sub-watershed, to the extent that the net result complies with 6.5.7 (c) (1).
- (m) **General Considerations for On-Site and Off-Site Stormwater Management Measures.** The following considerations shall be observed in managing stormwater runoff:



- (1) Natural topography and land cover features such as natural swales, natural depressions, native soil infiltrating capacity, and natural groundwater recharge areas shall be preserved and used, to the extent possible, to meet the requirements of this Section.
- (2) Emergency overland flow for all stormwater facilities shall be provided to prevent exceeding the safe capacity of downstream drainage facilities and prevent endangerment of downstream property or public safety.
- (3) BMPs for water quantity management shall utilize the following techniques, in order of preference:
  - a. Preservation of the natural features of development sites, including natural storage and infiltration characteristics;
  - b. Preservation of existing natural streams, channels, and drainage ways;
  - c. Minimization of new impervious surfaces;
  - d. Conveyance of storm water in open vegetated channels;
  - e. Construction of structures that provide both quantity and quality control, with structures serving multiple sites being preferable to structures serving individual sites; and
  - f. Construction of structures that provide only quantity control, with structures serving multiple sites being preferable to structures serving individual sites.

#### 6.5.8 PERMITTING REQUIREMENTS; PROCEDURES AND FEES.

- (a) **Permit Required.** No landowner or land operator may undertake a land development or land disturbing construction activity subject to this Chapter without receiving a permit from the Department of Public Works prior to commencing the proposed activity.
- (b) **Permit Application and Fee.** Unless specifically excluded by this Chapter, any land owner or operator desiring a permit shall submit to the Department of Public Works a permit application made on a form provided by the Department for that purpose:
  - (1) Unless otherwise excepted by this Chapter, a permit application must be accompanied by the following in order that the permit application be considered: a stormwater management plan, a maintenance agreement, and a non-refundable permit administration fee.
  - (2) The stormwater management plan shall be prepared to meet the requirements of Section 6.5.9 of this Chapter, the maintenance agreement shall be prepared to meet the requirements of Section 6.5.10 of this Chapter, the financial guarantee shall meet the intent of Section 6.5.11 of this Chapter, and fees shall be those established by the Common Council as set forth in Section 6.5.12 of this Chapter.
- (c) **Review and Approval of Permit Application.** The Department of Public Works shall review any permit application that is submitted with a stormwater

management plan, maintenance agreement, and the required fees. The following approval procedure shall be used:

- (1) Within sixty (60) business days of the receipt of a complete permit application, including all items as required by Section 6-5-8(b)(2), the Department of Public Works shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved.
  - (2) If the stormwater permit application, plan and maintenance agreement are approved, or if an agreed upon payment of fees in lieu of stormwater management practices is made, the Public Works Director shall issue the permit.
  - (3) If the stormwater permit application, plan or maintenance agreement are disapproved, the Public Works Director shall detail in writing the reasons for disapproval.
  - (4) If additional information is submitted, the Public Works Director shall have thirty (30) business days from the date the additional information is received to inform the applicant that the plan and maintenance agreement are either approved or disapproved.
- (d) **Permit Conditions.** All permits issued under this Chapter shall be subject to the following conditions, and holders of permits issued under this Chapter shall be deemed to have accepted these conditions. The Public Works Director may suspend or revoke a permit for violation of a permit condition, following written notification to the permittee. An action to suspend or revoke this permit may be appealed in accordance with Section 6.5.15 of this Chapter:
- (1) Compliance with this permit does not relieve the permit holder of the responsibility to comply with other applicable federal, state, and local laws and regulations.
  - (2) The permit holder shall design and install all structural and non-structural stormwater management measures in accordance with the approved stormwater management plan and this permit.
  - (3) The permit holder shall notify the City, at least two (2) business days before commencing any work in conjunction with the stormwater management plan, and within the next business day upon completion of the stormwater management practices. If required as a special condition, the permit holder shall make additional notifications according to a schedule set forth by the Department of Public Works so that practice installations can be inspected during construction.
  - (4) Practice installations required as part of this Chapter shall be certified "as built" by a licensed professional engineer. Completed stormwater management practices must pass a final inspection to determine if they are in accordance with the approved stormwater management plan and ordinance. The Public Works Director shall notify the permit holder in writing of any changes required in such practices to bring them into compliance with the conditions of this permit.
  - (5) The permit holder shall notify the Department of Public Works of any significant modifications it intends to make to an approved stormwater

management plan. The Public Works Director may require that the proposed modifications be submitted for approval prior to incorporation into the stormwater management plan and execution.

- (6) The permit holder shall maintain all stormwater management practices in accordance with the stormwater management plan until the practices are transferred to subsequent private owners as specified in the approved maintenance agreement.
  - (7) The permit holder authorizes the City of Glendale to perform any work or operations necessary to bring stormwater management measures into conformance with the approved stormwater management plan, and consents to a special assessment or charge against the property as authorized under Wis. Stats. §66.60(16), or to charge such costs against the financial guarantee posted under Section 6.5.11 of this Chapter.
  - (8) If so directed by the City, the permit holder shall repair, at the permit holder's own expense, all damage to adjoining municipal facilities and drainage ways caused by stormwater runoff, where such damage is caused by activities that are not in compliance with the approved stormwater management plan.
  - (9) The permit holder shall permit property access to City personnel for the purpose of inspecting the property for compliance with the approved stormwater management plan and this permit.
  - (10) Where a stormwater management plan involves changes in direction, increases in peak rate and/or total volume of runoff from a site, the City may require the permittee to make appropriate legal arrangements with adjacent property owners concerning the prevention of endangerment to property or public safety.
  - (11) The permit holder is subject to the enforceable actions detailed in Sec. 6-5-14 of this Chapter if the permit holder fails to comply with the terms of this permit.
- (e) **Permit Duration.** Permits issued under this Section shall be valid from the date of issuance through the date the City notifies the permit holder that all stormwater management practices have passed the final inspection required under Section 6.5.8(d)(4) of this Chapter.

### 6.5.9 STORMWATER MANAGEMENT PLANS.

- (a) **Plan Requirements.** The stormwater management plan required under Section 6-5-8(b)(1) of this Chapter shall contain any information the City may need to evaluate the environmental characteristics of the area affected by land development activity, the potential impacts of the proposed development upon the quality and quantity of stormwater discharges, the potential impacts upon water resources and drainage utilities, and the effectiveness and acceptability of proposed stormwater management measures in meeting the performance standards set forth in this Chapter. Unless specified otherwise by this Chapter, stormwater management plans shall contain, at a minimum, the following information:

- (1) Name, address, and telephone number for the following or their designees: landowner, developer, project engineer for practice design and certification; person(s) responsible for installation of stormwater management practices; person(s) responsible for maintenance of stormwater management practices prior to the transfer, if any, of maintenance responsibility to another party.
- (2) A proper legal description of the property proposed to be developed referenced to the U.S. Public Land Survey system or to block and lot numbers within a recorded land subdivision plat.
- (3) Pre-development site conditions, including:
  - a. One or more site maps at a scale of not less than 1 inch equals 100 feet. The site maps shall show the following: site location and legal property description; predominant soil types and hydrologic soil groups; existing cover type and condition; topographic contours of the site at a scale not to exceed 2 feet; topography and drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site (existing contours should extend 100 feet minimum distance into adjacent parcels); watercourses that may affect or be affected by runoff from the site, flow path and direction for all stormwater conveyance sections, including time of travel and time of concentration applicable to each; watershed boundaries used in determination of peak flow discharge rates and discharge volumes from the site; lakes, streams, ponds, channels, ditches, and other watercourses on and immediately adjacent to the site; limits of the 100 year floodplain; location of wells located within 1200 feet of stormwater detention ponds, infiltration basins or infiltration trenches; delineation of wellhead protection areas delineated pursuant to NR 811.16, Wis. Adm. Code.
  - b. Amount of existing impervious surface in square feet and acres.
- (4) Post-development site conditions, including:
  - a. Explanation of the provisions to preserve and use natural topography and land cover features to minimize changes in peak flow runoff rates and volumes to surface waters and wetlands.
  - b. Explanation of any restrictions on stormwater management measures in the development area imposed by wellhead protection plans and ordinances.
  - c. One or more site maps at a scale of not less than 1 inch equals 100 feet showing: revised pervious land use including vegetative cover type and condition; impervious land use including all buildings, structures, and pavement; revised topographic contours of the site at a scale not to exceed 2 feet; revised drainage network including enough of the contiguous properties to show runoff patterns onto, though, and from the site (existing contours should extend 100 feet minimum distance into adjacent parcels); locations and dimensions

- of drainage easements; locations of maintenance easements specified in the maintenance agreement; flow path and direction for all stormwater conveyance sections, including time of travel and time of concentration applicable to each; location and type of all stormwater management conveyance and treatment practices, including the on-site and off-site tributary drainage area; location and type of conveyance system that will carry runoff from the drainage and treatment practices to the nearest adequate outlet such as a curbed street, storm drain, or natural drainage way; watershed boundaries used in determinations of peak flow discharge rates and discharge volumes; any changes to lakes, streams, ponds, channels, ditches, and other watercourses on and immediately adjacent to the site.
- d. Amount of proposed impervious surface in square feet and acres.
  - e. Computation of the total runoff volume resulting from the 1.5-inch 4-hour rainfall, and computations of peak flow discharge rates and discharge volumes for the 2-year/24 hour and the 100-year/24 hour storm events. All major assumptions used in developing input parameters shall be clearly stated. The computations shall be made for each discharge point in the development, and the geographic areas used in making the calculations shall be clearly cross-referenced to the required map(s).
  - f. Results of investigations of soils and groundwater required for the placement and design of stormwater management measures.
  - g. Results of impact assessments on lake and stream functional values.
  - h. Design computations and all applicable assumptions for the stormwater conveyance (open channel, closed pipe) system.
  - i. Design computations and all applicable assumptions for stormwater quality practices (sedimentation type, filtration-type, infiltration-type) as needed to show that practices are appropriately sized to accommodate runoff from the 1.5-inch rainfall. For practice designs that depart from those specified in the “Wisconsin Storm Water Manual, Part 2: Technical Design Guidelines for Storm Water Best Management Practices,” the results of continuous simulation modeling, conducted according to the guidelines established in this manual, shall be presented in such a way as to show the reduction in average annual total suspended solids loading from the developed site.
  - j. Detailed drawings including cross-sections and profiles of all permanent stormwater conveyance and treatment practices.
- (5) A stormwater practice installation schedule.
  - (6) A maintenance plan developed for the life of each stormwater management practice including the required maintenance activities and maintenance activity schedule.

- (7) Cost estimates for the construction, operation, and maintenance of each stormwater management practice.
  - (8) Other information as needed by the City to determine compliance of the proposed stormwater management measures with the provisions of this Chapter.
  - (9) All site investigations, plans, designs, computations, and drawings shall be certified by a licensed professional engineer to be prepared in accordance with accepted engineering practice and in accordance with "The Wisconsin Storm Water Manual, Part 2.' Technical Design Guidelines for Storm Water Best Management Practices."
- (b) **Anticipated Impacts.** The plan shall contain a description of the following anticipated impacts of stormwater runoff from the proposed development, redevelopment, or land division as managed by the facilities and measures recommended in the plan:
- (1) Computed 100-year, 24-hour, SCS TYPE II peak runoff rate at each location where runoff enters and leaves the site, expressed in cubic feet per second;
  - (2) Computed 2-year, 24-hour, SCS TYPE II peak runoff rate at each location where runoff enters and leaves the site, expressed in cubic feet per second;
  - (3) Computed peak runoff rate corresponding to 0.15 cfs/acre at each location where runoff leaves the site, expressed in cubic feet per second;
  - (4) Computed peak runoff rate corresponding to 0.50 cfs/acre at each location where runoff leaves the site, expressed in cubic feet per second;
  - (5) Computed runoff volume for the 1.5-inch, 4-hour rainfall with a Huff Distribution;
  - (6) All major assumptions used in developing input parameters shall be clearly stated. The computations shall be made for each discharge point in to and out of the site, and the geographic areas used in making the calculations shall be clearly cross-referenced to the required map(s), including off-site tributary watershed areas;
  - (7) Changes in the locations and conveyance capacities of stormwater discharge points from and to the site concerned;
  - (8) Adequacy of receiving storm sewer, engineered stormwater management facility or watercourse to convey or store the anticipated peak rate of stormwater discharge from the site concerned, giving due consideration to existing and off-site flows;
  - (9) Changes in the location and extent of the 100-year recurrence interval flood hazard area of any perennial watercourse location within, through, or within 100 feet of, the site concerned;
  - (10) Results of investigations of soils and groundwater required for the placement and design of stormwater management measures.
- (c) **Exceptions.** The City may prescribe alternative submittal requirements for applicants seeking an exemption to on-site stormwater management performance standards under Section 6-5-7(c) of this Chapter.

### 6.5.10 MAINTENANCE AGREEMENT.

- (a) **Maintenance Agreement Required.** The maintenance agreement required for stormwater management practices under Section 6-5-8(b)(1) of this Chapter shall be an agreement between the City of Glendale and the permittee to provide for maintenance of stormwater practices beyond the duration period of this permit. The agreement or recordable document shall be recorded with the Milwaukee County Register of Deeds so that it is binding upon all subsequent owners of land served by the stormwater management practices.
- (b) **Agreement Provisions.** The maintenance agreement shall contain the following information and provisions:
- (1) Identification of the stormwater facilities and designation of the drainage area served by the facilities.
  - (2) A schedule for regular maintenance of each aspect of the stormwater management system consistent with the stormwater management plan.
  - (3) Identification of the landowner(s), organization or municipality responsible for long-term maintenance of the stormwater management practices.
  - (4) The landowner(s), organization, or municipality shall maintain stormwater management practices in accordance with the schedule included in the agreement.
  - (5) The City, its designee, and the Milwaukee Metropolitan Sewerage District are authorized to access the property to conduct inspections of stormwater practices as necessary to ascertain that the practices are being maintained and operated in accordance with the agreement.
  - (6) The City shall maintain public records of the results of the site inspections, shall inform the landowner responsible for maintenance of the inspection results, and shall specifically indicate any corrective actions required to bring the stormwater management practice into proper working condition.
  - (7) If the Public Works Director or the Director of Inspections notifies the party designated under the maintenance agreement of maintenance problems which require correction, the specified corrective actions shall be taken within a reasonable time frame as set by the City.
  - (8) The City of Glendale is authorized to perform the corrective actions identified in the inspection report if the landowner does not make the required corrections in the specified time period. The City shall enter the amount due on the tax rolls and collect the money as a special charge against the property pursuant to Wis. Stats. §66.60(16).

### 6.5.11 FINANCIAL GUARANTEE.

- (a) **Establishment of the Guarantee.** The City may require the submittal of a financial guarantee, the form and type of which shall be acceptable to the City. The financial guarantee shall be in an amount determined by the City to be the estimated cost of construction and the estimated cost of maintenance during the period which the designated party in the maintenance agreement has

maintenance responsibility. The financial guarantee shall give the City the authorization to use the funds to complete the project if the landowner defaults or does not properly implement the approved stormwater management plan.

- (b) **Conditions for Release.** Conditions for the release of the financial guarantee are as follows:
- (1) The City shall release the portion of the financial guarantee established to assure installation of stormwater practices, minus any costs incurred by the City to complete installation of practices, upon submission of “as built plans” by a licensed professional engineer. The City may make provisions for a partial pro-rata release of the financial guarantee based on the completion of various development stages.
  - (2) The City shall release the portion of the financial security established to assure maintenance of stormwater practices, minus any costs incurred by the City, at such time that the responsibility for practice maintenance is passed on to another entity via an approved maintenance agreement.

#### 6.5.12 FEE SCHEDULE.

The fees referred to in other sections of this Chapter shall be determined by the Common Council from time-to-time by ordinance or resolution. Fees shall be related to the costs involved in handling permit applications, reviewing plans, conducting site inspections, and administering the stormwater management program.

#### 6.5.13 ILLICIT DISCHARGES AND UNAUTHORIZED CONNECTIONS.

- (a) **Discharges Prohibited.** No person, firm, association, or corporation may discharge, spill or dump substances or materials which are not entirely composed of stormwater into receiving bodies of water, storm sewers or drainage facilities, or onto driveways, sidewalks, parking lots or other ways that drain into the drainage system.
- (b) **Exemptions.** The following activities are exempt from the provisions of this Section unless found to have an adverse impact on the stormwater:
- (1) Discharges authorized by a permit issued by the Wisconsin Department of Natural Resources.
  - (2) Discharges resulting from firefighting activities.
  - (3) Discharges in compliance with construction site erosion controls (Title 15, Chapter 2) or the stormwater management system regulations applicable to already developed or currently vacant property (Section 6.5.16).
  - (4) Discharges from uncontaminated ground water, potable water source, roof drains, foundation drain and sump pump; air conditioning condensation, springs, lawn watering or irrigation, individual residential car washing, water main and hydrant flushing and swimming pools if the water has been dechlorinated.



- (c) **Connections Prohibited.** It shall be a violation of this chapter to connect a sanitary sewer pipe or drain, connect a pipe or drain that contributes pollutants associated with industrial activity; or connect any other hydraulic conveyance facility that introduces non-stormwater discharges to the City stormwater drainage system and facilities. All such non-stormwater discharges into the City stormwater system and facilities shall be defined as illicit discharges.

Illicit discharges shall cease, desist, and be abated by the person or persons responsible within 24 hours of notice from the Building Inspector. If the person or persons responsible fail to cease, desist, and abate the illicit discharge, the City may take such action itself and seek reimbursement in Municipal or Circuit Court or via special assessment under 66.0627 Wis. Stats.

- (d) **Penalty.** Violations shall be subject to enforcement procedures and penalties set forth in Section 6-5-14 of this Chapter.

**6.5.14 ENFORCEMENT AND PENALTIES.**

- (a) Any land development activity initiated after the effective date of this Chapter by any person, firm, association, or corporation subject to the ordinance provisions shall be deemed a violation unless conducted in accordance with said provisions.
  - (1) Department of Public Works personnel shall carry out inspections, investigations, and monitoring to assess and confirm compliance with the requirements of this Section.
  - (2) City Personnel will inspect, conduct surveillance, and monitor the municipal drainage system and discharge outfalls on an annual basis to assess system performance and water quality. Findings of non-compliance with this Chapter during regular inspection, surveillance, or monitoring of the City drainage system shall initiate further investigation to identify the source of the pollution discharge to the drainage system.
  - (3) City Personnel will inspect land development activity for compliance with permit conditions as defined in this Chapter.
- (b) The Public Works Director shall notify the responsible owner or operator, by certified mail, of any non-complying land development activity. The notice shall describe the nature of the violation, remedial actions needed, a schedule for remedial action and additional enforcement action which may be taken.
- (c) Upon receipt of written notification from the Public Works Director, the permit holder shall correct work which does not comply with the stormwater management plan or other provisions of the permit. The permit holder shall make corrections as necessary to meet the specifications and schedule set forth in the notice.
- (d) If the violations to this Chapter are likely to result in damage to properties, public facilities, or waters of the state, City personnel may enter the land and take any emergency actions necessary to prevent such damage. The costs incurred by the City, plus interest and legal costs, shall be billed to the owner of title of the property.
- (e) The Public Works Director is authorized to post a stop work order on all land development activity in violation of this Chapter, or to request the City Attorney to obtain a cease and desist order.
- (f) The Public Works Director may revoke a permit issued under this Chapter for noncompliance with ordinance provisions.
- (g) Any permit revocation, stop work order, or cease and desist order shall remain in effect unless retracted by the Public Works Director or by a court of competent jurisdiction.
- (h) The Public Works Director or Director of Inspections is authorized to refer any violation of this Chapter, or of a stop work order or cease and desist order issued pursuant to this Chapter, to the City Attorney for the commencement of further legal proceedings.
- (i) Any person, firm, association or corporation who does not comply with the provisions of this Chapter shall be subject to a forfeiture of not less than Twenty Five Dollars (\$25.00) nor more than One Thousand Five Hundred Dollars (\$1,500.00) for a first offense, together with the costs of prosecution, and of not

less than Fifty Dollars (\$50.00) nor more than Two Thousand Five Hundred Dollars (\$2,500.00) for a second and each subsequent offense, together with the costs of prosecution. Each day that a violation exists shall constitute a separate offense.

- (j) Every violation of this Chapter is a public nuisance. Compliance with this Chapter may be enforced by injunction at the suit of the City pursuant to Wis. Stats. §62.23(8), citation, abatement of nuisance or other appropriate and available remedy. It shall not be necessary to prosecute for forfeiture before resorting to injunctive proceedings. The following shall be deemed to constitute public nuisances and may be prosecuted as such by the City or by aggrieved property owners:
- (1) Any development, redevelopment, or property land division that is commenced without an approved stormwater management plan as required by this Section;
  - (2) Any land development activity initiated after the effective date of this Section by any person, firm, association, or corporation subject to the Section provisions shall be deemed a violation unless conducted in accordance with said provisions;
  - (3) Any drainage facility not maintained in accordance with this Section;
  - (4) Any illicit discharge as defined in this Section to the City stormwater drainage system and facilities; and
  - (5) Any activity that adversely impacts on surface or ground water quality or endangers the health and safety of the public.
- (k) When the Public Works Director determines that the holder of a permit issued pursuant to this Chapter has failed to follow practices set forth in the Stormwater Management Plan, or has failed to comply with schedules set forth in said Stormwater Management Plan, City personnel may enter upon the land and perform the work or other operations necessary to bring the condition of said lands into conformance with requirements of the approved plan. The City shall keep a detailed accounting of the costs and expenses of performing this work. These costs and expenses shall be deducted from any financial security posted pursuant to Section 6-5-11 of this Chapter. Where such a security has not been established, or where such a security is insufficient to cover these costs, the costs and expenses shall be entered on the tax roll as a special charge against the property and collected with any other taxes levied thereon for the year in which the work is completed.

### 6.5.15 APPEALS.

- (a) **Board of Appeals.** The Board of Appeals, created pursuant to Section 2.4.3 of the City of Glendale Code of Ordinances, as authorized by Wis. Stats. §62.23(7)(e) and 68.11:
- (1) Shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the City in administering this Chapter;
  - (2) Upon appeal, may authorize variances from the provisions of this Chapter which are not contrary to the public interest and where owing to special conditions a literal enforcement of the provisions of the Chapter will result in unnecessary hardship; and
  - (3) Shall use the rules, procedures, duties, and powers authorized by statute in hearing and deciding appeals and authorizing variances.
- (b) **Who May Appeal.** Appeals to the Board of Appeals may be taken by any aggrieved party.

### 6.5.16 STORMWATER MANAGEMENT SYSTEM FOR DEVELOPED PROPERTY AND VACANT PROPERTY.

- (a) **Establishment.** There is hereby established a City of Glendale Stormwater Management System for Developed and Vacant Property (“System”), to be administered as part of the Public Works Department.
- (b) **Responsibilities.** The operation of the System shall be under the supervision of the Common Council, and the Director of Public Works shall be designated the Director of the System and shall be in charge of the day-to-day operations of the System. The Department of Public Works shall keep an accurate record of all persons using the services and facilities of the City's Stormwater Management System for Developed and Vacant Property, and make changes in accordance with the rates and charges established in this Section.
- (c) **Authority.** The City, through the System, may acquire, construct, lease, own, operate, maintain, extend, expand, replace, clean, dredge, repair, conduct, manage and finance such facilities as are deemed by the City to be proper and reasonably necessary for a system of storm and surface water management. These facilities may include, without limitation by enumeration, surface and underground drainage facilities, storm sewers, watercourses, ponds, and such other facilities as will support a stormwater management system.
- (d) **Findings and Determinations.** It is hereby found, determined, and declared as follows:
- (1) The management of stormwater and other surface water discharge from already developed and vacant property within and beyond the City of Glendale is a matter that affects the health, safety and welfare of the City, its citizens and businesses, and others in the surrounding area.
  - (2) Failure to effectively manage stormwater and other surface water discharge from already developed and vacant property may create,

- among other things, erosion of lands, threaten businesses and residences with water damage and create sedimentation and other environmental damage in the Milwaukee River.
- (3) In order to protect the health, safety and welfare of the public, it is in the public interest that the Glendale Common Council shall establish herein a Stormwater Management System governing already developed and vacant property, and shall set rates for the System's services.
  - (4) Those elements of the City Stormwater Management System for developed and vacant property which provide for the collection and disposal of stormwater and regulation of groundwater are of benefit and provide services to all real property within the incorporated City limits, including property not presently served by the storm elements of this system.
  - (5) The costs of operating and maintaining the System for developed and vacant property, and financing necessary repairs, replacement, improvements, and extension thereof should, to the extent practicable, be allocated in direct relationship to the property's contributions to the System.
- (e) **Definitions.** For purposes of this Section, the following definitions shall apply:
- (1) Availability Charge. A charge to a developer or individual resident to recover the debt service and extension and replacement costs paid for a stormwater management system facility that had been previously constructed, but which serves such developer or individual resident.
  - (2) Bonds. Revenue bonds, notes, loans or any other debt obligations issued or incurred to finance the costs of construction.
  - (3) Cost of Construction. Costs reasonably incurred in connection with providing capital improvements to the system or any portion thereof, including but not limited to the costs of:
    - a. Acquisition of all real property and all interests in connection therewith, including all rights-of-way and easements therefore;
    - b. Physical construction, installation and testing, including the costs of labor, services, materials, supplies and utility services used in connection therewith;
    - c. Architectural, engineering, legal and other professional services;
    - d. Insurance premiums taken out and maintained during construction, to the extent not paid for by a contractor for construction and installation;
    - e. Any taxes or other charges which become due during construction;
    - f. Expenses incurred by the City or on its behalf with its approval in seeking to enforce any remedy against any contractor or sub-contractor in respect of any default under a contract relating to construction;
    - g. Principal of and interest on any bonds, and;
    - h. Miscellaneous expenses incidental thereto.
  - (4) Debt Service. With respect to any particular fiscal year and any particular series of bonds, an amount equal to the sum of (i) all interest payable on

- such bonds during the fiscal year, plus (ii) any principal installments of such bonds during such fiscal year.
- (5) Developed Property. Real property which has been altered from its natural state by the addition of any improvements such as a building, condominium, structure, or impervious surface. For new construction, property shall be considered developed pursuant to this Subsection: a. Upon issuance of a certificate of occupancy, or upon completion of construction or final inspection if no such certificate is issued; or b. If construction is at least fifty percent (50%) complete and construction is halted for a period of three (3) months.
  - (6) Director. The Director of Public Works or his/her designee.
  - (7) Dwelling Unit. A single unit or apartment providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation.
  - (8) Equivalent Residential Unit (ERU). The average impervious area in square feet of residential developed property per dwelling unit located within the City and as established by resolution as provided herein.
  - (9) ERU Rate. A user fee charged on each ERU as established by resolution as provided herein.
  - (10) Exempt Parcels. Parcels that drain into the City of Milwaukee's system, railroad tracks and switchyards, public rights-of-way, public streets, public alleys and public sidewalks, public parks and conservation areas and easements.
  - (11) Extension and Replacement. Costs of extensions, additions and capital improvements to, or the renewal and replacement of capital asset of, or purchasing and installing new equipment for, the system, or land acquisition for the system and any related costs thereto, or paying extraordinary maintenance and repair, including the costs of construction, or any other expenses which are not costs of operation and maintenance or debt service.
  - (12) Fee-in-Lieu-Of. A charge to a developer or individual resident to recover:
    - a. The costs of construction and debt service on a new stormwater management system facility which serves such developer or individual resident, or
    - b. The extension and replacement costs necessitated by development undertaken by such developer or individual resident.
  - (13) Fiscal Year. A twelve (12) month period commencing on the first day of January of any year, or such other twelve (12) month period adopted as the fiscal year of the City.
  - (14) Impervious Area. Roofed and paved areas, including, but not limited to, areas covered by roofs, roof extensions, patios, porches, driveways, sidewalks, parking areas, pools, and athletic courts.
  - (15) Mixed Use Parcels. Parcels that fall into the property assessor's code as G2 Mercantile, and contain a single family home and a commercial business.

- (16) Non-residential Developed Property. Developed property that is not classified as residential developed property by the property assessor.
  - (17) Operating Budget. The annual operating budget adopted by the City for the succeeding fiscal year.
  - (18) Operations and Maintenance. The current expenses, paid or accrued, of operation, maintenance and current repair of the system, as calculated in accordance with sound accounting practice, and includes, without limiting the generality of the foregoing, insurance premiums, administrative expenses, labor, executive compensation, the cost of materials and supplies used for current operations, and charges for the accumulation of appropriate reserves for current expenses not annually incurred, but which are such as may reasonably be expected to be incurred in accordance with sound accounting practice.
  - (19) Property Assessor. The duly appointed City property assessor.
  - (20) Residential Developed Property. Developed property that is identified as residential by the property assessor.
  - (21) Revenues. All rates, fees, assessments, rentals, fines, or other charges or other income received by the City, in connection with the management and operation of the System, including amounts received from the investment or deposit of moneys in any fund or account and any amounts contributed by the City, all as calculated in accordance with sound accounting practice.
  - (22) Stormwater Management System ("System"). The existing stormwater management system of the City and all improvements thereto which, according to this Section, are constituted as the property and responsibility of the City, to be operated as an enterprise fund to, among other things, conserve water, control discharges necessitated by rainfall events, incorporate methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over-drainage, environmental degradation and water pollution or otherwise affect the quality of discharge from such system.
  - (23) Undisturbed Parcel. A parcel which has not been altered from its natural state by dredging, filling, removal of trees and vegetation or other activities which have disturbed or altered the topography or soils on the property.
  - (24) User Fee. A user fee authorized by Wisconsin law and this Section which is established to pay operations and maintenance, extension, and replacement and debt service for the Stormwater Management System.
  - (25) Stormwater Management System Trust Fund. The enterprise trust fund created by this Section to operate, maintain and improve the System.
- (f) **Operating Budget**. The Common Council shall adopt an operating budget not later than the first day of each fiscal year. The operating budget shall set forth for such fiscal year the estimated revenues and the estimated costs for operations and maintenance, extension and replacement, and debt service.
- (g) **Establishment of Rates for User Fees**. The Common Council shall require that adequate revenue is generated to provide for a balanced operating budget by setting sufficient levels of user fees. The Common Council hereby authorizes the

imposition of user fees on all developed property within the City according to the following rate schedule.

- (h) **Rate Schedule Set Based Upon Property Classification.** For purposes of imposing the user fee, the customer base shall be identified as either residential developed property, nonresidential developed property, or as an undisturbed parcel:
- (1) Computation of User Fee for Residential Developed Property. The user fee for residential developed property shall be the ERU rate multiplied by the number of individual dwelling units existing on the property.
  - (2) Computation of User Fee for Nonresidential Developed Property. The user fee for nonresidential developed property shall be the ERU rate multiplied by the numerical factor obtained by dividing the total impervious area for a nonresidential developed property by one ERU. The minimum user fee for any nonresidential developed property shall be equal to one ERU rate.
  - (3) Computation of User Fee for Undisturbed Parcels. Undisturbed parcels shall be exempted from the user fee.
- (i) **Billing and Payment.** The user fee is to be paid by the owner, tenant, or occupant of each lot or parcel subject to the fee. All properties within the customer base shall be rendered bills or statements quarterly for the use of these services and facilities of the System by the Public Works Department. The user fee shall be part of a consolidated statement for the City's water and sewer customers. Partial payments shall be applied to water charges, sewer charges and stormwater management user fees, in that specific order.
- (j) **Delinquent Fees and Penalties.** Delinquent user fees shall bear interest at the rate of eighteen percent (18%) per annum from the date of delinquency. The City shall be entitled to recover attorney's fees incurred in collecting delinquent user fees. Any charge due under this Section which shall not be paid when due may be recovered in an action at law by the City. In addition, penalties may be imposed as provided in Section 1.1.7(a).
- (k) **Special Assessment Authority.** In addition to any other method for collection of the user fee established pursuant to this Section, the Common Council finds that these fees may be levied on property as a special assessment pursuant to Wis. Stats. §66.60(16), as the fees established hereunder reasonably reflect the benefits conferred on property and may be assessed as special charges. The mailing of the bill for such charges to the owner will serve as notice to the owner that failure to pay the charges when due may result in them being assessed pursuant to the authority of Wis. Stats. §66.60(16). In addition, the City may provide notice each October of any unpaid charges to the System which charges, if not paid by October 15, may be placed upon the tax roll under Wis. Stats. §66.60(16). All delinquent user fees shall be liens until paid upon the properties to which they are associated, which liens shall be co-equal with the liens of all state, county, district, and municipal taxes and superior in dignity to all other liens, titles, and claims. Such liens may be forecasted in the same manner as mortgages.



- (l) **Adjustment of Fees.** Requests for adjustment of the user fee for nonresidential developed property shall be submitted to the Director, who is hereby given the authority to develop and administer the procedures and standards for the adjustment of fees as established herein. All requests shall be judged on the basis of the amount of impervious area on the site. No credit shall be given for the installation of facilities required by City or county development codes or State stormwater rules. The following procedures shall apply to all Adjustment requests of the user fee:
- (1) Any customer who has paid his/her user fee and who believes his/her user fee to be incorrect may, within thirty (30) days of payment and subject to the limitations set forth in this Subsection, submit an adjustment request to the Director.
  - (2) Adjustment requests shall be in writing and set forth, in detail, the grounds upon which relief is sought.
  - (3) Adjustment requests made during the first calendar year that the user fee is imposed will be reviewed by the Director within a two (2) month period from the date of filing of the adjustment request. Adjustments resulting from such request shall be retroactive to the beginning of fillings, but retroactive adjustment shall not exceed one (1) year.
  - (4) The customer requesting the adjustment may be required, at his/her own cost, to provide supplemental information to the Director, including, but not limited to, survey data approved by a registered professional land surveyor (R.P.L.S.) and engineering reports approved by a professional engineer (P.E.). Failure to provide such information may result in the denial of the adjustment request.
  - (5) Adjustments to the user fee will be made upon the granting of the adjustment request, in writing, by the Director. Adjustments that result in a credit shall be applied to the customer's account. Denials of adjustment requests shall be made, in writing, by the Director.
- (m) **Appeal Procedure.** Upon receipt of the written denial of an adjustment request, the customer who initially requested the adjustment may, within thirty (30) days of receipt of such denial, appeal to the Stormwater Management Adjustment Board for review of the denial:
- (1) The Stormwater Management Adjustment Board shall complete its review within thirty (30) days of receipt of said request for review. The Stormwater Management Adjustment Board's determination shall be in writing and set forth, in detail, the reason or reasons for its decision.
  - (2) In reviewing denials of adjustment requests, the Stormwater Management Adjustment Board shall apply the standards and review criteria contained in Subsection (a) of this Section.
- (n) **Capital Contributions.**
- (1) Where the City has constructed or plans to construct stormwater facilities which are proposed to be used by a developer in lieu of a facility usually required to be constructed by him/her, the City may accept a capital contribution from the developer and waive certain construction requirements.

- (2) Procedures and standards developed by the City shall define appropriate means by which to optimize the developer's capital contributions in the construction or refunding of stormwater systems. These capital contributions shall take the form of fee-in-lieu-of or availability charges. Each situation will be analyzed by the City and a specific written decision will be developed. The application of each charge is defined as follows.
  - (3) "Fee-in-lieu-of charge" is applied to a site specific negotiated procedure, wherein a development's stormwater contribution (quantity and quality) is assessed its share of the capital needs of the facilities required to serve the development in question. This capital contribution would be used for the construction and refunding of City-owned stormwater facilities. The process does not apply when the stormwater facilities are privately held. Each application is evaluated against the City's Master Plan, or where the Master Plan is incomplete, against the cumulative impacts of the development.
  - (4) "Availability charge" is administered on a site-specific basis identical to the fee-in-lieu-of procedure noted above. The only difference is that the capital investment advanced by the City in implementing a stormwater facility is now recovered through an availability charge. The capital charge is determined on a pro-rata share of the capacity used by the new applicant as measured by the cumulative impact of the development upon all impacted facilities applied to the present worth of the original capital expenditure.
- (o) **Stormwater Management System Trust Fund.** There shall be established a Stormwater Management System Trust Fund for the deposit of all stormwater fees and charges collected by the City. These funds shall be for the exclusive use of the City's Stormwater Management System, including but not limited to the following:
- (1) Administrative costs associated with the management of the Stormwater Management System.
  - (2) Planning and engineering.
  - (3) Operation and maintenance of the System.
  - (4) Funding of pollution abatement devices constructed on stormwater systems discharging to the surface water of the City.
  - (5) Debt service financing.
- (p) **Stormwater Management System Adjustment Board.**
- (1) Composition. The Stormwater Management Adjustment Board shall consist of one (1) Alderperson, originally appointed by the Mayor, but thereafter annually elected at the Common Council's organizational meeting, the City Administrator and the City Comptroller.
  - (2) Duties. The duties and functions of the Stormwater Management Adjustment Board shall be as prescribed in Sec. 6.5.16(m) of this Code of Ordinances.

### **6.5.17 SEVERABILITY.**

If any provision of this Chapter, or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Chapter which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are declared severable.

## **6.6 ENVIRONMENTAL REMEDIATION FEE PROGRAM**

- 6.6.1** FINDINGS AND DETERMINATIONS
- 6.6.2** ESTABLISHMENT; RESPONSIBILITIES; AUTHORITY
- 6.6.3** DEFINITIONS
- 6.6.4** ESTABLISHMENT OF RATES FOR REMEDIATION FEES
- 6.6.5** BILLING AND PAYMENT; DELINQUENT FEES AND PENALTIES
- 6.6.6** SPECIAL ASSESSMENT AUTHORITY
- 6.6.7** ENVIRONMENTAL REMEDIATION FEE PROGRAM TRUST FUND

### **6.6.1 FINDINGS AND DETERMINATIONS.**

It is hereby found, determined and declared as follows:

- (a) The remediation of the environmental contamination emanating from the former Bender Road sanitary landfill area located within the boundaries of the City of Glendale is a matter that affects the health, safety and welfare of the City, its citizens and businesses, and others in the surrounding area.
- (b) Failure to effectively remediate such contamination may threaten businesses and residences with environmental contamination and attendant damages and create other environmental damage in the Milwaukee River.
- (c) In order to protect the health, safety and welfare of the public, the Glendale Common Council shall establish an Environmental Remediation Fee Program and shall set rates for environmental remediation fees.
- (d) An Environmental Remediation Fee Program, which shall provide for the payment of the remediation costs of the contaminated former Bender Road sanitary landfill area, will provide a benefit to all real property within the incorporated City limits.
- (e) The costs of remediation of the contaminated former Bender Road sanitary landfill area should, to the extent practicable, be allocated to all properties in direct relationship to the benefits such remediation will accomplish.

### 6.6.2 ESTABLISHMENT; RESPONSIBILITIES; AUTHORITY.

- (a) **Establishment.** There is hereby established a City of Glendale Environmental Remediation Fee Program, to be administered as part of the Public Works Department. Said Program shall remain in effect only until remediation of the contaminated former Bender Road sanitary landfill area is approved by the Wisconsin Department of Natural Resources, and further that the Department of Natural Resources has provided the appropriate letter or certificate of closure.
- (b) **Responsibilities.** The operation of the Program shall be under the supervision of the Common Council, and the Director of Public Works shall be designated the Director of the Program and shall be in charge of the day-to-day operations of the Program. The Department of Public Works shall keep an accurate record of all fees collected and expenditures made of such fees during the duration of the Program.
- (c) **Authority.** The City, through the Environmental Remediation Fee Program, may hire the necessary consultants to design the remediation work, and may hire, acquire, construct, lease, own, operate, maintain, extend, expand, replace, clean, dredge, repair, conduct, manage and finance such items and entities as are deemed by the City and Wisconsin Department of Natural Resources to be proper and reasonably necessary to remediate the contamination of the former Bender Road sanitary landfill and to redevelop a portion of such land for industrial purposes.

### 6.6.3 DEFINITIONS.

For the purpose of this Chapter, the following definitions shall apply:

- (a) **Bonds.** Revenue bonds, notes, loans or any other debt obligations issued or incurred to finance the costs of remediation.
- (b) **Debt Service.** With respect to any particular fiscal year and any particular series of bonds, an amount equal to the sum of:
  - (1) All interest payable on such bonds during such fiscal year; plus
  - (2) Any principal installments of such bonds during such fiscal year.
- (c) **Developed Property.** Real property which has been altered from its natural state by the addition of any improvements, such as a building, condominium or other structure. For new construction, property shall be considered developed pursuant to this Chapter:
  - (1) Upon issuance of a certificate of occupancy, or upon completion of construction or final inspection if no such certificate is issued; or
  - (2) If construction is at least fifty percent (50%) complete and construction is halted for a period of three (3) months.
- (d) **Director.** The Director of Public Works or his designee.
- (e) **Dwelling Unit.** A single unit or apartment providing complete, independent living facilities for one (1) or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

- (f) **Equivalent Residential Unit or ERU.** The average square feet of residential developed property per dwelling unit located within the City and as established by resolution as provided herein.
- (g) **ERU Rate.** A remediation user fee charged on each ERU as established by resolution as provided herein.
- (h) **Fiscal Year.** A twelve (12) month period commencing on the first (1st) day of January of any year, or such other twelve (12) month period adopted as the fiscal year of the City.
- (i) **Mixed Use Parcels.** Parcels that fall into the City Assessor's code as G2-Mercantile and contain a single-family home and a commercial business.
- (j) **Nonresidential Developed Property.** Developed property that is not classified as residential developed property by the property assessor.
- (k) **Operations and Maintenance.** The current expenses, paid or accrued, of operation, maintenance and current costs of environmental remediation, as calculated in accordance with sound accounting practice, and includes, without limiting the generality of the foregoing, insurance premiums, administrative expenses, labor, executive compensation, the cost of materials and supplies used for current operations, and charges for the accumulation of appropriate reserves for current expenses not annually incurred, but which are such as may reasonably be expected to be incurred in accordance with sound accounting practice.
- (l) **Property Assessor.** The duly appointed City Assessor.
- (m) **Remediation Fee.** A user fee authorized by Wisconsin law and this Chapter which is established to pay operations and maintenance, extension and replacement and debt service for the Environmental Remediation Fee Program.
- (n) **Residential Developed Property.** Developed property that is identified as residential by the property assessor.

#### 6.6.4 ESTABLISHMENT OF RATES FOR REMEDIATION FEES.

- (a) **Imposition of Fees.** The Common Council shall require that adequate revenues are generated to provide for a balanced operating budget for the Environmental Remediation Fee Program by setting sufficient levels of remediation fees. The Common Council hereby authorizes the imposition of remediation fees on all developed property within the City according to the following rate schedule:
- (b) **Rate Schedule.**
  - (1) Property Classification. For purposes of imposing the remediation fee, the following property classes will identify the user base:
    - a. Residential developed property;
    - b. Nonresidential developed property; and
    - c. Undisturbed parcels.
  - (2) Computation of Remediation Fee for Residential Developed Property. The remediation fee for residential developed property shall be the ERU rate [which shall be determined by taking into consideration that the average residential unit in the City is one thousand five hundred (1,500) square

feet and generates 1,273.6 pounds of refuse annually], multiplied by the number of individual dwelling units existing on the property.

- (3) Computation of Remediation Fee for Nonresidential Developed Property. The remediation fee for nonresidential developed property shall be the numerical factor obtained by dividing the total square footage of a nonresidential developed property by 1,500 (to equal one ERU). The minimum remediation fee for any nonresidential developed property shall be equal to one (1) ERU rate.
- (4) Computation of Remediation Fee for Undisturbed Parcels. Undisturbed parcels shall be exempted from the remediation fee.
- (5) Computation of Remediation Fee for Vacant Land. Shall be equal to (1) ERU rate.

#### **6.6.5 BILLING AND PAYMENT; DELINQUENT FEES AND PENALTIES.**

- (a) **Billing and Payment.** The remediation fee is to be paid by the owner, tenant, or occupant of each lot or parcel subject to the fee. All non-exempt properties within the City shall be rendered bills or statements quarterly. The remediation fee shall be part of a consolidated statement for the City's water and sewer customers. Partial payments shall be applied to water charges, sewer charges and environmental remediation fees, in that specific order.
- (b) **Delinquent Fees and Penalties.** Delinquent user fees shall bear interest at the rate of eighteen percent (18.0%) per annum from the date of delinquency. The City shall be entitled to recover attorneys fees incurred in collecting delinquent user fees. Any charge due under this Chapter which shall not be paid when due may be recovered in an action at law by the City.

#### **6.6.6 SPECIAL ASSESSMENT AUTHORITY.**

In addition to any other method for collection of the remediation fee established pursuant to this Chapter, the Common Council finds that these fees may be levied on property as a special assessment pursuant to Wis. Stats. §66.60(16), as the fees established hereunder reasonably reflect the benefits conferred on property and may be assessed as special charges. The mailing of the bill for such charges to the owner will serve as notice to the owner that failure to pay the charges when due may result in them being assessed pursuant to the authority of Wis. Stats. §66.60(16). In addition, the City may provide notice each October of any unpaid charges to the Environmental Remediation Fee Program which charges, if not paid by October 15, may be placed upon the tax roll under Wis. Stats. §66.60(16). All delinquent remediation fees shall be liens until paid upon the properties to which they are associated, which liens shall be coequal with the liens of all state, county, district, and municipal taxes and superior in dignity to all other liens, titles and claims. Such liens may be forecasted in the same manner as mortgages.

### **6.6.7 ENVIRONMENTAL REMEDIATION FEE PROGRAM TRUST FUND.**

There shall be established an Environmental Remediation Fee Program Trust Fund for the deposit of all remediation fees and charges collected by the City. These funds shall be for the exclusive use of the Environmental Remediation Fee Program, including but not limited to the following:

- (a) Administrative costs associated with the Program.
- (b) Planning, engineering, legal and consulting services.
- (c) Operation and maintenance of the Program.
- (d) All costs associated with the development of remediated parcels for industrial purposes.
- (e) Debt service financing.

### **6.6.8 APPEALS.**

Upon receipt of the written denial of an adjustment request, the customer who initially requested the adjustment may, within thirty (30) days of receipt of such denial, appeal to the Glendale Water Board for review of denial:

- (a) The Glendale Water Board shall complete its review within thirty (30) days of receipt of said request for review.
- (b) The Glendale Water Board's determination shall be in writing and set forth, in detail, the reason or reasons for its decision.

### **6.7.1 COMPOST.**

Residents of the City of Glendale may pick-up compost at the Glendale Public Works Yard at no charge. Time for pick-up will be from 7:00am to 2:30pm, Monday through Friday. Interested residents are responsible for both collecting and transporting the compost. For compost deliveries by the Department of Public Works, a delivery fee of One Hundred Dollars (\$100.00) shall be charged.

### **6.8.1-5 REGULATION OF THE APPLICATION AND SALE OF COAL TAR SEALANTS.**

#### **6.8.1 DEFINITIONS.**

- (a) **Coal Tar** is a byproduct of the process used to refine coal. Coal tar contains high levels of polycyclic aromatic hydrocarbons (PAHs).
- (b) **Coal Tar Sealant Product** means a pavement sealant product that contains coal tar, coal tar pitch, coal tar pitch volatiles, RT-12, Refined Tar or any variation

assigned the Chemical Abstracts Service (CAS) numbers 65996-92-1, 65996-93-2, 65996-89-6, or 8007-45-2 or related substances.

- (c) **High PAH Sealant Product** means any pavement sealant product that contains greater than 0.1% polycyclic aromatic hydrocarbons (PAHs) by weight, including, but not limited to, coal tar sealant products and sealant products containing steam-cracked petroleum residues, steam-cracked asphalt, pyrolysis fuel oil, heavy fuel oil, ethylene tar, or any variation of those substances assigned the chemical abstracts service number 64742-90-1, 69013-21-4 or related substances.
- (d) **Pavement Sealant Product**, or sealcoat, is any substance that is typically applied on paved surfaces to protect the surfaces. This may include but is not limited to sealant products that are coal tar or asphalt based.
- (e) **Polycyclic Aromatic Hydrocarbons (PAHs)** are a group of organic chemicals that are formed during the incomplete combustion of coal, oil, gas, or other organic substances, are present at high levels in coal tar, and are known to be harmful to humans, fish, and other aquatic life.
- (f) **Director** means the director of the City of Glendale.

### **6.8.2 ENFORCEMENT.**

Violations of this ordinance will be enforced by the City of Glendale, through the City Administrator or his/her designate.

### **6.8.3 REGULATION OF THE APPLICATION AND SALE OF COAL TAR OR OTHER HIGH PAH SEALANT PRODUCTS.**

- (a) Except as provided in Section 6.8.4 (Exemptions), no person shall apply any coal tar sealant product or high PAH sealant product within the City of Glendale.
- (b) No person shall sell, offer to sell, or display for sale any coal tar sealant product or high PAH sealant product within the City of Glendale.
- (c) Any person who sells pavement sealant products shall prominently display, in the area where such pavement sealant products are sold, a notice that contains the following language: "The application of coal tar sealant products or other high PAH sealant products on driveways, parking lots and all other paved surfaces in the City of Glendale is prohibited by Chapter 6.8 of the City of Glendale Code of Ordinances. Polycyclic Aromatic Hydrocarbons (PAHs), are a group of organic chemicals that are known to cause cancer and are toxic to aquatic life. Coal tar and other high – PAH sealant products are a major source of PAHs that can travel into homes, buildings, and soils, or be carried by stormwater and other run off into the water resources of the City of Glendale."
- (d) No person shall allow a coal tar sealant product or other high PAH sealant product to be applied upon property that is under that person's ownership or control.



- (e) No person shall contract with any commercial applicator, residential or commercial developer, or any other person for the application of any coal tar sealant product or high PAH sealant product to any driveway, parking lot, or other surface within the City of Glendale.
- (f) No commercial applicator, residential or commercial developer, or other similar individual or organization shall direct any employee, independent contractor, volunteer, or other person to apply any coal tar sealant product or high PAH sealant product to any driveway, parking lot, or other surface within the City of Glendale.

#### **6.8.4 EXEMPTIONS.**

The Director may exempt a person from a requirement of this chapter if the Director determines that:

- (a) The City Administrator may exempt a person from the requirements of Section 6.8.3 if the person is conducting bona fide research concerning the effects of a coal tar sealant product or high PAH sealant product on the environment; the use of the coal tar product or high PAH sealant product is required for said research; and the Director determines that said research will not cause significant contamination of the surrounding environment, including soils and aquatic ecosystems, and will not unduly endanger human health.
- (b) The City Administrator may exempt a person from the requirements of Section 6.8.3 if the person does not intend to apply the sealant within municipal boundaries.

#### **6.8.5 PENALTY.**

Any person who violates the provisions of this ordinance shall be subject to penalty as provided in Section 1.1.7 of the Glendale Code of Ordinances.