

Chapter 309

STREETS AND SIDEWALKS

ARTICLE I General Regulations

- § 309-1. Grades.
- § 309-2. Removal of rubbish and dirt from sidewalks.
- § 309-3. Construction and repair of sidewalks, curbs and gutters.
- § 309-4. Excavations of streets, alleys and public grounds.
- § 309-5. Regulations governing excavations and openings.
- § 309-6. Obstructions and encroachments.
- § 309-7. Street privilege permit.
- § 309-8. Snow and ice removal.
- § 309-9. Terrace areas.
- § 309-10. Vaults.

§ 309-11. Downspouts and eaves of buildings not to drain on sidewalks.

§ 309-12. Sale or display of merchandise.

§ 309-13. Requests for improvements.

ARTICLE II Street Use Permits

§ 309-14. Purpose.

§ 309-15. Application for permit.

§ 309-16. Representative at Village Board meeting.

§ 309-17. Petition.

§ 309-18. Fees.

§ 309-19. Insurance; performance bond.

§ 309-20. Termination of permit.

[HISTORY: Adopted by the Village Board of the Village of Ontario as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Bicycles and play vehicles — See Ch. 125.
Driveways — See Ch. 169.
Snowmobiles — See Ch. 364.

Abandoned vehicles — See Ch. 331.
Vehicles and traffic — See Ch. 335.
Subdivision of land — See Ch. 364.

ARTICLE I General Regulations

[Adopted 7-7-1986 as Title 4, Chs. 1 and 2 of the 1986 Code]

§ 309-1. Grades.

- A. Grades to be established. The grade of all streets, alleys and sidewalks shall be established by resolution by the Village Board and the same recorded by the Village Clerk-Treasurer 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 resolution, the sidewalks shall be laid to the established grade of the street.¹

- 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 and 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 of the sidewalk 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 Public Streets and Lighting Committee 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 Village.
- C. Alteration of grade prohibited. No person shall alter the grade of any street, alley, sidewalk or public ground or any part thereof in the Village of Ontario by any means whatsoever unless authorized or instructed to do so by the Village Board. All such alterations of grade shall be recorded in the office of the Clerk-Treasurer or the officer authorizing the alteration.

§ 309-2. 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 Village Board, the Board may cause the same to be done and report the cost thereof to the Village Clerk-Treasurer, who shall spread the cost on the tax roll as a special tax against the premises, or such cost may be recovered in an action against the owner or occupant.

§ 309-3. Construction and repair of sidewalks, curbs and gutters.

- A. Owner to construct. It shall be the duty of the abutting owner to build, repair, construct and perpetually maintain sidewalks along or upon any street, alley or highway in the Village of Ontario and to pay the entire cost of construction thereof, unless a percentage of cost sharing is authorized by the Village Board. Whenever the Village Board shall by resolution determine that a sidewalk shall be laid, rebuilt, repaired, lowered or raised along or upon any public street, alley or highway within the Village, it shall proceed according to § 66.0907, Wis. Stats. Sidewalks shall be located in such places as designated by the Village Board. No person shall remove any sidewalk without the permission of the Village Board.
- B. Permit required. No person shall hereafter lay, remove, replace or repair any public sidewalk within the Village unless he is under contract with the Village to do such work or has obtained a permit therefor from the Village Clerk-Treasurer at least three days before work is proposed to be undertaken. No fee shall be charged for such permits.

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

sidewalk, and such sum shall be levied and collected as other special taxes against real estate.

§ 309-8. Snow and ice removal.

- A. Owner's responsibility. The owner, occupant or person in charge of each and every building, structure or unoccupied lot in the Village of Ontario fronting or abutting any street shall clean or cause to be cleaned the sidewalk in front of or adjoining each such home, building or unoccupied lot, as the case may be, of snow or ice to the width of such sidewalk within 24 hours after the snow has ceased to fall and shall cause the same to be kept clear from ice and snow, provided that when the ice has formed on any sidewalk so that it cannot be immediately removed, the persons herein referred to shall keep the same sprinkled with salt, sawdust or sand.
- B. Village's option to clear sidewalks. In any case where the owner, occupant or person in charge of any building or structure or unoccupied lot shall fail to clear his respective sidewalk of snow or ice as set forth above, then and in that event the Village may elect to clear said sidewalk as follows: The Village shall clear or cause to be cleared all snow and ice from the subject's sidewalk and shall charge the expenses of so doing at a rate as established by resolution by the Village Board. The charges shall be set forth in a statement to the Clerk-Treasurer, who, in turn, shall mail the same to the owner, occupant or person in charge of the subject premises. If said statement is not paid in full within 30 days thereafter, the statement shall be reported to the Clerk-Treasurer, who shall enter the charges in the tax roll as a special tax against said lot or parcel of land, and the same shall be collected in all respects like other taxes upon real estate or as provided under § 66.0907(3)(f), Wis. Stats. **[Amended 3-10-1997]**
- C. Deposit of snow on streets or sidewalks. No person shall deposit or cause to be deposited any snow or ice taken and removed from his premises or elsewhere upon any sidewalk, alley, parkway, public place or street in the Village; provided, however, that the snow removed from a sidewalk in front of or abutting his premises, as is required by Subsection A, may be deposited on the alley or street. Snow shall not be piled at or near intersections so as to obstruct the view of pedestrians or operators of motor vehicles.
- D. Penalty. As an alternative to the remedy provided in Subsection B above, or in addition thereto, the Village may impose a penalty for violation of any provision of this section, provided that the person who violates any of the provisions of this section shall be subject to a penalty as provided in Chapter 1, § 1-3, of this Code. A separate offense shall be deemed committed during each day (24 hours) or part thereof during which a violation occurs or continues.⁶

6. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

condition, and will repair any and all damage to the streets, alleys, sidewalks or public property of the Village resulting from such building or moving operations.⁴

- C. Fee. The fee for a street privilege permit shall be in the sum as set by the Village Board.⁵
- 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 Village President for violation thereof:
- (1) Such temporary obstruction shall cover not more than 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 feet in width guarded by a closed fence at least four 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 Village Board, 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 Village Board.
 - (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 months from the date of issuance unless an earlier termination date is specified thereon at the direction of the Village Board.
- F. Removal by Village. In addition to any other penalty imposed, if the owner or occupant of the premises adjoining any unlawfully obstructed sidewalk shall refuse or neglect to remove such obstruction within 24 hours after such notice from the Village Board to do so, it shall be the duty of the Village to remove such obstruction and make return of the costs and expenses thereof to the Village Clerk-Treasurer, who shall enter such cost on the next annual tax roll as a special charge against the property abutting such obstructed

4. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

5. Editor's Note: See Ch. A390, Fees.

§ 309-6. 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 Subsection B.
- B. Exceptions. The prohibition of Subsection A shall not apply to the following:
- (1) Signs or clocks attached to buildings which project no more than six feet from the face of such building and which do not extend below any point 10 feet above the sidewalk, street or alley.
 - (2) Awnings now built and extending over any sidewalk at a height of less than seven feet six inches above the sidewalk, street or alley.
 - (3) Public utility encroachments duly authorized by state law or by the Village Board.
 - (4) Goods, wares, merchandise or fixtures being loaded or unloaded which do not extend more than three feet on a sidewalk, provided such goods, wares, etc., do not remain thereon for more than three hours.
 - (5) Temporary encroachments or obstructions authorized by permit under § 309-7 of this article pursuant to § 66.0425, Wis. Stats.
 - (6) Building materials for the period authorized by the Village Board which shall not obstruct more than 1/2 of the sidewalk or more than 1/3 of the traveled portion of the street and which do not interfere with flow in the gutters.
 - (7) Excavations and openings permitted under §§ 309-4 and 309-5 of this article.

§ 309-7. Street privilege permit.

- A. When required. Permits for the use of the streets, alleys, sidewalks or other public ways or places of the Village may be granted to applicants by the Clerk-Treasurer 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.³
- B. Bond. No street privilege permit shall be issued until the applicant shall execute and file with the Village Clerk-Treasurer a bond in an amount determined by the Public Streets and Lighting Committee, not exceeding \$50,000, conditioned that the applicant will indemnify and save harmless the Village from all liability for accidents or damage caused by reason of operations under said permit, will remove such encumbrance upon termination of the operations, will leave the vacated premises in a clean and sanitary

3. Editor's Note: See Ch. 135, Building Construction.

- F. Validity of permit. Unless the work shall be commenced within 30 days of the issuance of the permit, the permit shall be void, and a new permit must be obtained and an additional fee charged. The Clerk-Treasurer may extend the time limitation for good cause.
- G. Backfilling. It shall be the duty of the permittee to backfill the opening immediately upon completion of the work and to place at least five inches of traffic bind or similar material in the opening unless otherwise advised by the Chairman of the Public Streets and Lighting Committee. It shall be the duty of the permittee to maintain the opening in good condition for a period of six months after the completion of the work or until the surface has been restored. The Public Streets and Lighting Committee shall decide when within said six-month period the opening is ready for paving if a paving surface is required. If the surface is not restored within a period of 10 days or such longer period as determined by the Public Streets and Lighting Committee, the Village may restore the surface and bill the permittee therefor.
- 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 may take immediate proper emergency measures to remedy dangerous conditions for the protection of property, life, health or safety without obtaining an excavation permit, provided that such person, firm or corporation shall apply for an excavation permit not later than the next business day.
- I. Excavation in improved or repaved streets. Whenever the Village Board determines to provide for the permanent improvement or repaving of any street, such determination shall be made not less than 30 days before the work of improvement or repaving shall begin. Immediately after such determination by the Village Board, the Village Clerk-Treasurer shall notify in writing each person, utility, Village department or other agency owning or controlling any sewer, water main, conduit or other utility in or under said street or any real property abutting said street that all such excavation work in such street must be completed within 30 days. After such permanent improvement or repaving, no permit shall be issued to open or excavate said street for a period of five years after the date of improvement or repaving unless in the opinion of the Village Board an emergency exists which makes it absolutely essential that the permit be issued.
- J. 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 Clerk-Treasurer, 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 the applicant proposes to use in doing the work. The Clerk-Treasurer shall determine if sufficient information is submitted.
- K. Exception. The provisions of this section shall not apply to excavation work done by Village employees or contractors performing work under contract with the Village, except that the safety precautions under Subsection C hereof shall be complied with.

§ 309-5. Regulations governing excavations and openings.

- A. Frozen ground. No openings in the streets, alleys, sidewalks or public ways shall be permitted when the ground is frozen, except where it is deemed necessary by the Chairman of the Public Streets and Lighting Committee.
- B. Removal of paving. In any opening or excavation, all paving or ballasting materials shall be removed with the least possible loss of or injury to surfacing materials and, together with the excavated materials from the opening, shall be placed so as to cause the least practicable inconvenience to the public and permit free flow of water along gutters.
- C. Protection of public.
 - (1) Every opening and excavation shall be enclosed with sufficient barriers. Sufficient warning lights shall be kept on from sunrise to sunset. Such lights shall be spaced so as to give adequate warning of the existence of the opening and of piled excavated materials. No open-flame warning pots shall be used. Except by special permission from the Chairman of the Public Streets and Lighting Committee, no trench shall be excavated more than 250 feet in advance of pipe or conduit laying nor left unfilled more than 500 feet 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 Village 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.
- D. Replacing street surface. In opening any public street, public alley, public sidewalk, public way, public easement or public ground, the paving materials, sand, gravel and earth or other material moved or penetrated and all surface monuments or hubs must be removed and replaced as nearly as possible in their original condition or position and the same relation to the remainder as before. Any excavated material which in the opinion of the Public Streets and Lighting Committee is not suitable for refilling shall be replaced with approved backfill material. All rubbish shall be immediately removed. In refilling the opening, the earth must be puddled or laid in layers not more than six inches in depth and each layer rammed, tamped or flushed to prevent after-settling. When the sides of the trench will not stand perpendicular, sheathing and braces must be used to prevent caving. No timber, bracing, lagging, sheathing or other lumber shall be left in any trench. The Village may elect to have the opening for any street or sidewalk repaired by the Village, in which case the cost of making such repair and of maintaining it for one year shall be charged to the person making the street opening.
- E. Notice. It shall be the duty of the permittee to notify the Village Clerk-Treasurer and all public and private individuals, firms and corporations affected by the work to be done at least 24 hours before such work is to commence. The Clerk-Treasurer shall also be notified at least four hours prior to backfilling and or restoring the surface.

street, public alley, public way, public ground, public sidewalk or Village-owned easement within the Village of Ontario without a permit therefor from the Clerk-Treasurer.

- B. Fees. The fee for a street opening permit shall be set by the Village Board.² The fee shall be paid to the Clerk-Treasurer, who shall issue a receipt therefor.
- C. Insurance required. A permit shall be issued only upon condition that the applicant submit to the Clerk-Treasurer 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 \$100,000 per one person and \$300,000 for one accident and property damage coverage of not less than \$50,000.
- D. Bond.
 - (1) Before a permit for excavating or opening any street or public way may be issued, the applicant must sign a statement in that he will indemnify and save harmless the Village of Ontario and its officers from all liability for accidents and damage caused by any of the work covered by his permit; that he will fill up and place in good and safe condition all excavations and openings made in the street; that he 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 Village Board for a period of two years; and that he will pay all fines imposed upon him for any violation of any rule, regulation or ordinance governing street openings or drain laying adopted by the Village Board 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 Village. Such statement shall also guarantee that if the Village shall elect to make the street repair, the person opening the street will pay all costs of making such repair and of maintaining the same for one year.
 - (2) The person who does such restoration shall be responsible therefor for two years from the date of the completion of the work and shall file a written guarantee or surety bond to that effect with the Village in the amount of \$10,000.
 - (3) Whenever the Village Board shall find that any such work has become defective within two years of the date of completion, it 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 Village Board 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 Village for the cost of doing the work as set forth in the notice.
 - (4) An annual bond may be given under this section covering all excavation work done by the principal for one year beginning January 1, which shall be conditioned as specified above and in the amount determined by the Village Board as necessary to adequately protect the public and the Village.

2. Editor's Note: See Ch. A390, Fees.

checked with a ten-foot straightedge, and any areas departing more than 1/8 inch from the testing edge shall be corrected by adding or removing concrete while the concrete in the walk is still plastic.

- (7) Jointing. Transverse, full-depth, one-half-inch-thick expansion joints of premolded expansion material shall be located every 40 feet and at the property line and where the walk intersects another walk, curbline, building or driveway approach and at buildings, walls, poles and stop boxes. The expansion joint material shall be placed in a neat and workmanlike manner, with its upper edge slightly below the finished sidewalk surface. Dummy groove joints for controlled cracking, at least 3/8 inch in thickness and 5/16 inch in depth, shall be placed at intervals of approximately four feet. All joints shall be at right angles to the direction and grade of the walk. Diagonal joints may be used only when approved by the Public Streets and Lighting Committee.
 - (8) Curing and drying. As soon as any of the concrete work hereinbefore mentioned has been finished and hardened sufficiently to prevent excessive marring of the surface, it shall be cured and protected against rapid drying. Failure to comply with this requirement shall be deemed sufficient cause for suspension of the work. Curing shall be accomplished by the impervious coating, wet fabric or paper method. For impervious coating or membrane curing, only those materials meeting requirements of ASTM Specs. C156-44T, Method of Test for Efficiency of Materials for Curing Concrete, shall be used. Said specifications are hereby adopted by reference as if fully set forth herein. Walks shall be kept free from all traffic at normal temperatures for 48 hours and in cold weather (below 50° F.) for 96 hours. No concrete shall be poured when the temperature may be expected to fall below 35° F. in any seventy-two-hour period or upon frozen subgrade.
- D. Sidewalk repair or replacement. Pursuant to § 66.0907, Wis. Stats., the Village Board may order property owners to repair or remove and replace any sidewalk which is unsafe, defective or insufficient. If the property owner shall fail to so repair or remove and replace such sidewalk for a period of 20 days after service of the notice provided in § 66.0907(3)(c), Wis. Stats., the Village Board shall repair or construct such sidewalk, and the Village Clerk-Treasurer shall enter the total cost thereof upon the tax roll as a special tax against said lot or parcel of land.
- E. Unsafe sidewalks. The Village Board may at any time, by ordinance or resolution, order any sidewalk which is unsafe, defective or insufficient to be removed and replaced with a sidewalk in accordance with the standard specifications provided for in this section.
- F. Construction and repair of concrete curb and gutter. The provisions of § 66.0703, Wis. Stats., shall be followed in the case of the construction and repair of concrete curb and gutter, provided that the property deemed benefited by said construction and repair shall pay 100% of the costs thereof.

§ 309-4. Excavations of streets, alleys and public grounds.

- A. Permit required. No person, partnership or corporation, or its agents or employees or contractors, shall make or cause to be made any opening or excavation in any public

C. Specifications. All sidewalks within the Village hereafter shall be repaired, rebuilt and constructed in accordance with the following specifications:

- (1) Subgrade. The subgrade shall be prepared by excavating to the line, grade and cross section as established and approved by the Public Streets and Lighting Committee. Soft and unsuitable material shall be removed and replaced with sand or other satisfactory material, and the subgrade shall be thoroughly and uniformly compacted and moistened immediately before the concrete is placed. When so specified by the Public Streets and Lighting Committee, a subbase of sand, sand and gravel or other approved porous material shall be placed under the sidewalk. On embankments the subgrade shall extend at least one foot beyond each edge of the sidewalk.
- (2) Material. All sidewalks shall be of air-entrained concrete composed of six bags per cubic yard of one-course construction and built to the established line and grade. Gravel shall be of good quality. Concrete shall be mixed thoroughly for a minimum of one minute after all materials have been placed in the mixer.
- (3) Forms. Concrete shall be placed in straight forms of wood or metal of sufficient strength to resist springing, tipping or other displacement during the process of depositing and consolidating the concrete. Wood forms shall be surfaced plank of at least two inches in thickness, except for sharply curved sections. Metal forms shall be of approved section. The forms shall be of full depth of the required walk and shall be of such design as to permit secure fastening. Forms shall be thoroughly cleaned and oiled before the concrete is placed against them. Concrete shall be placed in the forms on a moist subgrade, deposited just above the finished grade and consolidated and spaded sufficiently to bring the mortar to the surface and to prevent honeycombing. It shall then be struck off level with the top of the forms and finished with wooden flats.
- (4) Drainage. To provide adequate drainage, the sidewalk shall slope toward the curb at a minimum rate of 1/4 inch per foot of width of sidewalk. All joints and edges shall be finished with a one-fourth-inch-radius edging tool. Sidewalks shall be constructed within the limits of the street, and unless otherwise specifically indicated, there shall be a one-foot strip of street property left between the property line and the edge of the sidewalk.
- (5) Width and thickness. Residential walks shall be five feet in width and not less than four inches thick, except within driveway approaches where the minimum thickness shall be six inches, provided that walks in residential areas may be repaired or replaced to a width not less than the existing width on the effective date of this section. Sidewalks in front of commercial or industrial establishments shall be not less than eight feet in width and five inches in thickness, except within driveway approaches where the minimum thickness shall be seven inches. A block shall be deemed to lie within a business district when 50% or more of the frontage along the sidewalk boundary is occupied for business purposes.
- (6) Finishing. Before the last finish has set, the sidewalk shall be steel troweled and brushed in a transverse direction. Before the final finishing, the surface shall be

§ 309-9. Terrace areas.

- A. Definition. The definition of "terrace" shall be as provided in Chapter 322, Trees and Shrubs, § 322-2.⁷
- 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 Village Board or its designee.
- C. Responsibility to maintain. Every owner of land in the Village whose land abuts a terrace is required to maintain, or have maintained by his 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.
- D. Street rights-of-way. Any tree, shrub, hedge, fence or other obstruction planted or constructed within the right-of-way of any Village street shall be done at the property owner's risk and shall be in accordance with the provisions of Chapter 322, Trees and Shrubs, of this Code. In the event any street is widened or sidewalk constructed, any such planting or obstruction shall be removed at the property owner's expense.

§ 309-10. Vaults.

All vaults under sidewalks in the Village shall be constructed of brick, concrete block or poured concrete. The surface opening into the street shall be within three feet of the outer edge of the sidewalk or the curb. The slab over such vault shall be able to withstand a load of 250 pounds per square foot of slab area. The owner of any lot or parcel of land adjoining such vault shall maintain such vault and slab over in a safe condition and at his own expense.

§ 309-11. 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 shall be cast upon or flow back or over any public sidewalk in the Village. When the eaves of any 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 Chapter 1, § 1-3, of this Code.

§ 309-12. Sale or display of merchandise.

No person shall display, sell, or offer to sell, on any street, sidewalk, alley or other public place within the Village, anything of value or service of any kind, except in connection with a Village-wide enterprise or promotion of community trade.

7. Editor's Note: See the definition of "boulevard area" in Ch. 322, § 322-2.

§ 309-13. Requests for improvements.

Requests or petitions by Village property owners for new streets, curb and gutter and sidewalks shall be presented to the Village Board on or before November 1 to be considered for installation in the following year.

ARTICLE II**Street Use Permits**

[Adopted 7-7-1986 as Title 7, Ch. 8 of the 1986 Code]

§ 309-14. Purpose.

The streets in possession of the Village are primarily for the use of the public in the ordinary way. However, under proper circumstances the Village Board may grant a permit for street use, subject to reasonable municipal regulation and control. Therefore, this article is enacted to regulate and control the use of streets pursuant to a street use permit to the end that the health, safety and general welfare of the public and the good order of the Village can be protected and maintained.

§ 309-15. Application for permit.

A written application for a street use permit by persons or groups desiring the same shall be made on a form provided by the Village Clerk-Treasurer and shall be filed with the Village Clerk-Treasurer. The application shall set forth the following information regarding the proposed street use:

- A. The name, address and telephone number of the applicant or applicants.
- B. If the proposed street use is to be conducted for, on behalf of or by an organization, the name, address and telephone number of the headquarters of the organization and of the authorizing responsible heads of such organization.
- C. The name, address and telephone number of the person or persons who will be responsible for conducting the proposed use of the street.
- D. The date and duration of time for which the requested use of the street is proposed to occur.
- E. An accurate description of that portion of the street proposed to be used.
- F. The number of persons for whom use of the proposed street area is requested.
- G. The proposed use, described in detail, for which the street use permit is requested.

§ 309-16. Representative at Village Board meeting.

The person or representative of the group making application for a street use permit shall be present when the Village Board gives consideration to the granting of said street use permit to

provide any additional information which is reasonably necessary to make a fair determination as to whether a permit should be granted.

§ 309-17. Petition. ⁸

The application shall be accompanied by a petition designating the proposed area of the street to be used and time for said proposed use, said petition to be signed by not less than 75% of the residents over 18 years of age residing along that portion of the street designated for the proposed use. Said petition shall be verified and shall be submitted on a form provided by the Village Clerk-Treasurer.

§ 309-18. Fees. ⁹

An application for a street use permit shall be accompanied by a fee as set by the Village Board. If the application is for an event in which a major activity is the sale or promotion of commercial products or services, the application shall be accompanied by a fee as set by the Village Board and the applicant shall agree to pay within 20 days of billing all Village costs incurred by the occasion of the event.

§ 309-19. Insurance; performance bond.

The applicant for a street use permit may be required to indemnify, defend and hold the Village and its employees and agents harmless against all claims, liability, loss, damage or expense incurred by the Village on account of any injury to or death of any person or any damage to property caused by or resulting from the activities for which the permit is granted. As evidence of the applicant's ability to perform the conditions of the permit, the applicant may be required to furnish a certificate of comprehensive general liability insurance with the Village of Ontario. The applicant may be required to furnish a performance bond prior to being granted the permit.

§ 309-20. Termination of permit.

A street use permit for an event in progress may be terminated by a law enforcement officer if the health, safety and welfare of the public appear to be endangered by activities generated as a result of the event or the event is in violation of any of the conditions of the permits or ordinances of the Village of Ontario. The law enforcement officers have the authority to revoke a permit or terminate an event in progress if the event organizers fail to comply with any of the regulations in the street use policy or conditions stated in the permit.

8. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

9. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

Chapter 322

TREES AND SHRUBS

- | | |
|-----------------------------------------------------------|--------------------------------------------------------------------|
| § 322-1. Statement of policy; applicability. | § 322-7. Permit for planting, maintenance and removal. |
| § 322-2. Definitions. | § 322-8. Planting. |
| § 322-3. Designation of Village Forester; right of entry. | § 322-9. Trimming. |
| § 322-4. Interference with Village Forester. | § 322-10. Obstruction of view at intersection or of traffic signs. |
| § 322-5. Abatement of tree disease nuisances. | § 322-11. Removal of trees and stumps. |
| § 322-6. Assessment of costs of abatement. | § 322-12. Prohibited acts. |
| | § 322-13. Appeals. |
| | § 322-14. Adoption of state statutes. |
| | § 322-15. Planting of certain species restricted. |

[HISTORY: Adopted by the Village Board of the Village of Ontario 7-7-1986 as Title 4, Ch. 4 of the 1986 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Brush, grass and weeds — See Ch. 131.
Nuisances — See Ch. 252.
Parks and recreation — See Ch. 263.

Property maintenance — See Ch. 273.
Streets and sidewalks — See Ch. 309.
Subdivision of land — See Ch. 364.

§ 322-1. Statement of policy; applicability.

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

§ 322-2. Definitions.

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

BOULEVARD AREA — The land between the normal location of the street curbing and sidewalk. Where there is no sidewalk, the area four feet from the curbline shall be deemed to be a boulevard for the purpose of this chapter. "Boulevard" shall also mean "terrace."

CLEAR-SIGHT TRIANGLE — A triangle formed by the curbline of two intersecting rights-of-way and a third line connecting a full-view zone at corners of streets, alleys and highways.

MAJOR ALTERATION — Trimming a tree beyond necessary trimming to comply with this chapter.

PERSON — Person, firm, association or corporation.

PUBLIC AREA — Includes all public parks and other lands owned, controlled or leased by the Village, except the terrace areas.

PUBLIC NUISANCE — 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 which endangers the life, health, safety or welfare of persons or property.

PUBLIC TREES AND SHRUBS — All trees and shrubs located or to be planted in or upon public areas.

SHRUB — Any woody vegetation or a woody plant having multiple stems and bearing foliage from the ground up.

TREE — Any woody plant normally having one stem or trunk bearing its foliage or crown well above ground level to heights of 16 feet or more.

VILLAGE — The Village of Ontario, Wisconsin.

§ 322-3. Designation of Village Forester; right of entry.

- A. The Village Board may designate a municipal employee or other person to perform the duties of Forester under Ch. 27, Wis. Stats., and may authorize such Forester to perform the duties and exercise the powers imposed on the Board by this chapter.
- B. The Village Forester or his authorized representative may enter upon private premises at all reasonable times for the purpose of examining any tree or shrub located upon or over such premises and carrying out any of the provisions of this chapter.

§ 322-4. Interference with Village Forester.

No person shall interfere with the Village Forester or his authorized representative while he is engaged in carrying out any work or activities authorized by this chapter.

§ 322-5. Abatement of tree disease nuisances.

- A. Dutch elm and other tree diseases a public nuisance. Whereas the Village Board has determined that there are many trees growing on public and private premises within the Village, 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 Village, and that the health and life of such trees are threatened by fatal diseases such as Dutch elm disease, which is spread by the elm bark beetles *Scolytus multistriatus* (Eichb.) and *Hylurgopinus rufipes* (Marsh.), the Board 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, the following terms will have the meaning indicated:

PERSON — Person, firm or corporation.

PUBLIC NUISANCE —

- (1) Dutch elm disease.
- (2) Elm bark beetles *Scolytus multistriatus* (Eichb.) or *Hylurgopinus rufipes* (Marsh.).
- (3) 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.).
- (4) 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.
- (5) Any other deleterious or fatal tree disease.

PUBLIC PROPERTY — Owned or controlled by the Village, 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.

C. Inspection.

- (1) The Forester shall inspect or cause to be inspected at least annually all premises and places within the Village to determine whether any public nuisance exists thereon. He shall also inspect or cause the inspection of any elm tree reported or suspected to be infected with the Dutch elm disease or any elm bark bearing materials reported or suspected to be infested with elm bark beetles.
- (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 permanent injury thereto and deliver such specimens to the Forester, who shall forward them to the Wisconsin Department of

Agriculture, Trade and Consumer Protection at Madison for analysis to determine the presence of such nuisances.

- (3) The Forester and his 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. Determination of need for abatement; notice to and abatement by private owners.

- (1) The Forester, with the approval of the Public Streets and Lighting Committee, shall order, direct, supervise and control the abatement of public nuisances as defined in this section by spraying, removal, burning or 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 Village, he shall immediately abate or cause the abatement of such nuisance in such manner as to destroy or prevent as fully as possible the spread of Dutch elm disease, other deleterious tree diseases, or the insect pests or vectors known to carry such disease fungus.
- (3) 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 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 Village, 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 Village.
- (4) If after hearing held pursuant to this Subsection D(3) it shall be determined by the Public Streets and Lighting Committee that a public nuisance exists, it shall forthwith order the immediate abatement thereof. Unless the property owner abates the nuisance as directed within five 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 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-foot radius thereof to be sprayed with an effective elm bark beetle 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 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 ask the Board to 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 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 E(2) of this section, the Village 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) and (4).

§ 322-6. Assessment of costs of abatement.

- A. Fifty percent of the 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 § 66.0627 or 27.09, Wis. Stats. The cost of abating any such nuisance or part thereof which is located in or upon any park or public grounds shall be borne by the Village.
- 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 Village Board on or before October 15 of each year.
 - (2) Upon receiving the Forester's report, the Village Board shall hold a public hearing on such proposed charges, giving at least 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 Village 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 Board 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 Clerk-Treasurer 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 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.
- C. The Village 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.

§ 322-7. Permit for planting, maintenance and removal.

- A. Permit required. No person, except upon order of the Village Forester, shall plant or remove or do major alterations as determined by the Forester on a tree or shrub in the public right-of-way terrace area or any public area or cause such act to be done by others without first obtaining a written permit for such work from the Village Clerk-Treasurer as herein provided.
- B. Permit exemptions. No permit shall be required to cultivate, fertilize or water trees or shrubs. No permit is necessary to plant trees inside the property line.
- C. Permit requirements and conditions. If the Village Forester determines that the proposed work or planting described in an application for a permit is necessary and in accord with the purposes of this chapter, taking into account the safety, health and welfare of the public; location of utilities, public sidewalk, driveways and streetlights; general character of the area in which the tree or shrub is located or proposed to be located; type of soil; and characteristics and physiological need of the genus, species and variety of tree or shrub, he shall have the Clerk-Treasurer issue a permit to the applicant.¹
- D. Permit form; expiration. Every permit shall be issued by the Village Clerk-Treasurer 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 months after date of issuance. There will be no charge for this permit.²
- E. Permits to public utilities.

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- (1) Whenever a permit is issued under this section to a public utility to remove, trim, prune, cut, disturb, alter or do surgery on any public tree or shrub, the Village 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 Village rate.
- (2) A public utility may secure an annual working agreement with the Village Forester's office which gives the Village Forester the authorization to supervise and direct work done associated with trees and shrubs.

§ 322-8. Planting.

A. Planting generally.

- (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 Village Forester for approval before commencement of such work. The permit application process is required in § 322-7.
- (2) There shall be a minimum distance of 16 feet and a recommended distance of 25 to 50 feet between terrace area trees, depending upon the size of the 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 feet wide, planting will not be permitted.
- (3) Pine or fir trees shall not be planted in a terrace area.
- (4) It shall be unlawful to plant or maintain shrubbery, ground cover or other plants within terrace areas whose growth is in excess of eight inches in height above the top of the nearest curb.

B. Unlawfully planted trees. 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 Village may remove such trees, plants or shrubs and assess the costs thereof to the owner.

C. Frames. Any person adjacent to whose land any shade or ornamental tree or shrub is growing in any street may, for the purpose 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 Village Forester.

§ 322-9. Trimming.

A. Trees and shrubs standing in or upon any boulevard or public areas 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 14 feet. The Village Forester may waive the provisions of this section for newly planted trees if he determines that they do not interfere with public travel, obstruct the light of any streetlight or endanger public safety.

- B. The necessity of the pruning may be determined by the Village Forester.
- C. Clearance from sidewalk to lower branches shall not be less than 10 feet. All trees standing upon private property in the Village, the branches of which extend over the line of the street, shall be trimmed so that no branch shall grow or hang over the line of the sidewalk lower than 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. All cuts above one-inch diameter shall be treated with a tree wound compound.

§ 322-10. Obstruction of view at intersection or 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 or more streets or alleys in the Village any hedge, trees, 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 in the Village. 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 Forester shall notify the property owner in writing, describing the conditions, stating the steps necessary to correct the conditions and establishing a reasonable time within which the corrective steps shall be taken. In the event that effective steps are not taken within the time specified, it shall be lawful for the Village to abate these conditions to the extent necessary to assure compliance with the foregoing requirements, and the costs thereof shall be assessed to the owner.

§ 322-11. Removal of trees and stumps.

- A. Dangerous, obstructive and infected trees. Any tree or part thereof, whether alive or dead, which the Village Forester shall find to be infected, hazardous or a nuisance so as to endanger the public or other trees, plants or shrubs growing within the Village, or to be injurious to sewers, sidewalks or other public improvements, 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 Village Forester, subject to § 322-15, 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 24 hours nor more than 14 days as determined by the Village Forester on the basis of the seriousness of the condition of the tree or danger to the public. If the owner shall fail to remove, treat or trim said tree within the time limited, the Village Forester shall cause the tree to be removed, treated or trimmed and shall report the full cost thereof to the Village Clerk-Treasurer, who shall thereupon enter such cost as a special charge against the property.

- B. Removal of trees. 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 inches below grade measured in 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.

§ 322-12. 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 Village Forester in the case of a terrace area tree, public tree or shrub, do or cause to be done by others any of the following acts:
- (1) Secure, fasten or run any rope, wire sign, unprotected electrical installation or other device or material to, around, or through a tree or shrub.
 - (2) Break, injure, mutilate, deface, kill or destroy any tree or shrub or permit any fire to burn where it will injure any tree or shrub.
 - (3) Permit any toxic chemical, gas, smoke, oil or other injurious substance to seep, drain or be emptied upon or about any tree or shrub or place cement or other solid substance around the base of the same.
 - (4) Remove any guard, stake or other device or material intended for the protection of a public tree or shrub or close or obstruct any open space about the base of a public tree or shrub designed to permit access of air, water and fertilizer.
 - (5) Attach any sign, poster, notice or other object on any tree, or fasten any guy wire, cable, rope, nails, screws or other device to any tree, except that the Village may tie temporary "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 10 feet from any public tree without a permit from the Village Forester.³

- C. Refusal to abate nuisance. No person shall permit any public nuisance to remain on any premises owned or controlled by him when ordered by the Forester to abate such nuisance.

§ 322-13. Appeals.

Any person who receives a determination or order under this chapter from the Village Forester or Public Streets and Lighting Committee and objects to all or any part thereof shall have the right to appeal such determination or order, subject to the provisions of Ch. 68, Wis. Stats., to the Village Board within seven days of receipt of the order, and the Village Board shall hear such appeal within 30 days of receipt of written notice of the appeal. After such hearing the Village Board may reverse, affirm or modify the order or determination appealed from, and the grounds for its decision shall be stated in writing. The Village Board shall by letter notify the party appealing the order or determination of its decision within 10 days after the hearing has been concluded and file its written decision with the Clerk-Treasurer.

§ 322-14. Adoption of state statutes.

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

§ 322-15. Planting of certain species restricted.

- A. Cottonwood and box elder trees prohibited. No person shall plant within the Village any female tree of the species *Populus Deltoides*, commonly called the cottonwood, or any tree commonly called the seed-bearing box elder, or *Acer Negundo*, which may now or hereafter become infested with box elder bugs, and such trees are hereby declared a nuisance. If any owner planting any such tree shall fail to remove any such tree within 30 days after receiving written notice from the Village Forester, the Village Forester shall cause the removal of such tree and report the full cost thereof to the Village Clerk-Treasurer, who shall place such charge upon the next tax roll as a special charge against the premises.
- B. Planting of certain trees restricted. No person shall hereafter plant any catalpa, Chinese elm, white poplar, Lombardy poplar or any fruit or nut tree in or upon any public street, parkway, boulevard or other public place within the Village unless he shall first secure written permission from the Village Forester, who shall not approve any such planting if in his opinion said tree will constitute a nuisance to the public or adjoining property owners or interfere with the safety of the public or the operation of any sewer or water system. The Village Forester shall cause the removal of any tree planted in violation of this subsection.

3. Editor's Note: Original § 4-4-12(c), Interference with Forester, which immediately followed this subsection, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II). See now § 322-4, Interference with Village Forester.

Chapter 331

VEHICLES, ABANDONED

- | | |
|----------------------------------------------|------------------------------------------------------|
| § 331-1. Abandonment of vehicles prohibited. | § 331-6. Removal and storage; notification of owner. |
| § 331-2. Definitions. | § 331-7. Sale of unclaimed vehicles. |
| § 331-3. Presumptions. | § 331-8. Report of sale or disposal. |
| § 331-4. Exceptions. | § 331-9. Owner responsible for costs. |
| § 331-5. Impoundment of vehicles. | § 331-10. Conflict with other provisions. |

[HISTORY: Adopted by the Village Board of the Village of Ontario 7-7-1986 as §§ 8-4-1 to 8-4-7 of the 1986 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Junkyards — See Ch. 219.
Nuisances — See Ch. 252.

Property maintenance— See Ch. 273.
Vehicles and traffic — See Ch. 335.

§ 331-1. Abandonment of vehicles prohibited.

No person shall leave unattended any motor vehicle, trailer, semitrailer or mobile home on any public street or highway or private or public property in the Village of Ontario for such time and under such circumstances as to cause the vehicle to reasonably appear to have been abandoned. Whenever any such vehicle has been left unattended on any street or highway in the Village of Ontario or upon private or public property without the permission of the property owner or other person charged with the lawful jurisdiction thereof for more than 72 hours, the vehicle shall be deemed abandoned and constitutes a public nuisance.

§ 331-2. Definitions.

For purposes of this chapter, the following definitions shall be applicable:

STREET — Any public highway or alley and shall mean the entire width between the boundary lines of any public way where any part thereof is open to the public for purposes of vehicular travel.

UNATTENDED — Unmoved from its location with no obvious sign of continuous human use.

VEHICLE — A motor vehicle, trailer, semitrailer or mobile home, whether or not such vehicle is registered under Wisconsin law.

§ 331-3. Presumptions.

For purposes of this chapter, the following irrebuttable presumptions shall apply:

- A. A vehicle shall be presumed unattended if it is found in the same position 72 hours after issuance of a traffic ticket or citation and if such traffic ticket or citation remains placed upon the windshield during said 72 hours.
- B. Any vehicle left unattended for more than 72 hours on any public street or public ground or left unattended for more than 72 hours on private property without the consent of the property owner is deemed abandoned and constitutes a nuisance, provided that the vehicle shall not be deemed abandoned under this subsection if left unattended on private property outside of public view or if designated as not abandoned by Village law enforcement officers.

§ 331-4. Exceptions.

This chapter shall not apply to a vehicle in an enclosed building, a vehicle stored on a premises licensed for storage of junk or junked vehicles, or a vehicle parked in a paid parking lot or space where the required fee has been paid.

§ 331-5. Impoundment of vehicles.

Any vehicle in violation of this chapter shall be removed and impounded until lawfully claimed or disposed of under the provisions of § 331-6.

§ 331-6. Removal and storage; notification of owner.

The provisions of this section shall apply to the removal, storage, notice, reclaiming or disposal of abandoned vehicles.

A. Removal.

- (1) Any police officer who discovers any motor vehicle, trailer, semitrailer or mobile home on any public street or highway or private or public property in the Village of Ontario which has been abandoned shall cause the vehicle to be removed to a suitable place of impoundment.
- (2) Upon removal of the vehicle, the police officer shall notify the Village Clerk-Treasurer or his designee of the abandonment and of the location of the impounded vehicle.

- B. Storage and reclaiming. Any abandoned vehicle which is determined by Village law enforcement officers to be abandoned shall be retained in storage for a period of 14 days after certified mail notice, as hereinafter provided, has been sent to the Wisconsin titled owner and/or secured party of record with the Wisconsin Division of Motor Vehicles, except that if Village law enforcement officers determine an abandoned vehicle to have a value of less than \$100 or that the cost of towing and storage charges for impoundment will exceed the value of the vehicle, it may be junked or sold by direct sale to a licensed salvage dealer after having been retained in storage for a period of 10 days and after certified mail notice, as hereinafter provided, has been sent to the Wisconsin titled owner or secured party of record with the Wisconsin Division of Motor Vehicles, provided that

it is first determined that the vehicle is not reported stolen or wanted for evidence or other reason. Any such vehicle which may be lawfully reclaimed may be released upon the payment of all accrued charges, including towing, storage and notice charges, and upon presentation of the vehicle title or other satisfactory evidence to Village law enforcement officers to prove an ownership or secured party interest in said vehicle.¹

- C. Notice to owner or secured party. Certified mail notice, as referred to herein, shall notify the Wisconsin titled owner of the abandoned vehicle, if any, and/or the secured party of record with the Wisconsin Division of Motor Vehicles, if any, that the vehicle has been deemed abandoned and impounded by the Village of Ontario; the determined value of the abandoned vehicle or if the cost of towing and storage charges will exceed the determined value of the vehicle; that if the vehicle is not wanted for evidence or other reason, the vehicle may be reclaimed upon the payment of all accrued charges, including towing, storage and notice charges, within 14 days of the date of notice, unless the vehicle has been determined to have a value less than \$100 or the cost of towing and storage charges for impoundment will exceed the value of the vehicle, in which case the vehicle may be reclaimed within 10 days upon the payment of the aforesaid charges; and that the owner or aforesaid secured party may, upon request, be granted a hearing relating to the determinations made with respect to said vehicle within the period that such vehicle may be reclaimed.²

§ 331-7. Sale of unclaimed vehicles.

Any abandoned vehicle impounded by the Village which has not been reclaimed or junked or sold by direct sale to a licensed salvage dealer pursuant to the provisions of this chapter may be sold by public auction sale or public sale calling for the receipt of sealed bids. Class 1 notice, including the description of the vehicle, the name(s) and address(es) of the Wisconsin titled owner and secured party of record, if known, and the time of sale shall be published before the sale.

§ 331-8. Report of sale or disposal.

Within five days after the direct sale or disposal of a vehicle as provided for herein, the Village Clerk-Treasurer shall advise the State of Wisconsin Department of Transportation, Division of Motor Vehicles, of such sale or disposal on a form supplied by said Division. A copy of the form shall be given to the purchaser of the vehicle.

§ 331-9. Owner responsible for costs.

- A. The owner of any abandoned vehicle, except a stolen vehicle, is responsible for the abandonment and all costs of impounding and disposing of the vehicle. Costs not covered from the sale of the vehicle may be recovered in a civil action by the Village against the owner.

1. Editor's Note: Amended at time of adoption of Code (see Ch. I, General Provisions, Art. II).

2. Editor's Note: Amended at time of adoption of Code (see Ch. I, General Provisions, Art. II).

- B. Payment of removal and impoundment costs is not required when the vehicle has been impounded for purposes of a law enforcement investigation.

§ 331-10. Conflict with other provisions.

In the event of any conflict between this chapter and any other provisions of this Code, this chapter shall control.