

## CHAPTER 6

### STREETS AND SIDEWALKS

#### 6.01 **STREET AND SIDEWALK GRADES.**

(1) ESTABLISHMENT. The grade of all streets, alleys and sidewalks shall be established and described by the Common Council and shall be recorded by the City Clerk in his office. No street, alley or sidewalk shall be worked until the grade thereof is established.

(2) ALTERING GRADE PROHIBITED. No person shall alter the grade of any street, alley, sidewalk or public ground or any part thereof unless authorized and instructed to do so by the City Council.

#### 6.01.01

(1) In addition to other methods provided by law, special assessments for any public work or improvement or any current service may be levied in accordance with the provisions of this ordinance.

(2) Whenever the Common Council shall determine that any public work or improvement or any current service shall be financed in whole or in part by special assessments levied under this ordinance, it shall adopt a resolution specifying this intention and the time, either before or after completion of the work or improvement, when the amount of the assessments will be determined and levied, the number of annual installments, if any, in which assessments may be paid, the rate of interest to be charged on the unpaid balance and the terms of which any of the assessments may be deferred while no use of the improvement is made in connection with the property.

(3) The provisions of Section 66.60, Wisconsin Statutes, shall apply to special assessments levied under this ordinance except that, when the Common Council determines by resolution that the hearing on the assessment to be held subsequent to the completion of the work or improvement or the rendering of the service, the report required by Section 66.60(3), Wisconsin Statutes, shall contain a statement of the final cost of the work, service, or improvement in lieu of an estimate of the cost.

(4) Notice of the time and place of the public hearing on any special assessment proposed to be levied and notice of the final assessment and terms of payment thereof shall be given in the manner prescribed by Section 66.60(7) and (8)(d), Wisconsin Statutes.

(5) Any special assessment levied under this ordinance shall be a lien against the property assessed from the date of the final resolution of the Common Council determining the amount of the levy.

(6) Any person again whose property a special assessment is levied under this ordinance may appeal therefrom in the manner prescribed by Section 66.60(12), Wisconsin Statutes, within forty (40) days of the date of the final determination of the Common Council.

**6.02 CONSTRUCTION AND REPAIR OF SIDEWALKS AND CURB AND GUTTER.** (Rep. & Recr. #166)

(1) **NEW CONSTRUCTION IN NEW RESIDENTIAL SUBDIVISIONS.** No person other than the City or its agent shall construct new sidewalks or curb and gutter. A person may petition the Committee of the Whole to construct new sidewalk on their own, or by a contractor of their choice. The Committee of the Whole shall review the petition and make a recommendation to the Common Council. The abutting property owner shall pay 100% of the cost of new construction.

(2) **WHEN SIDEWALKS & CURB/GUTTER ARE TO BE CONSTRUCTED.** Sidewalks and curb/gutter shall be constructed along each side of the street in any city block when any of the following conditions exist:

- (a) 50% of the property in the block has been improved with building improvements.
- (b) The City Council, by resolution, determines that construction of sidewalks better safeguards the welfare of the public.
- (c) With respect to properties zoned conservancy, the City Council may determine that no sidewalk shall be required even when the terms of paragraph (a) above are met.
- (d) The word "block" in this section shall mean that area between one intersection and another or between an intersection and a cul-de-sac or dead end on both sides of the street.

(3) **NEW SIDEWALK AND CURB/GUTTER CONSTRUCTION IN NON-RESIDENTIAL AREAS.** The City Council shall determine if the installation or non-installation of sidewalk and curb/gutter in these areas would be in the best interest of the city.

(4) NEW SIDEWALK AND CURB/GUTTER CONSTRUCTION IN EXISTING DEVELOPED RESIDENTIAL AREAS. Construction of sidewalk and curb/gutter in existing developed residential areas, shall occur unless the Common Council determines one of the following conditions exist:

- (a) It is not economically practical due to physical obstacles and/or complications.
- (b) Adequate right-of-way does not exist.
- (c) Sanitary sewer, storm sewer or water main is not completely installed.
- (d) The lot is at the end of a dead-end street. If this condition exists, sidewalk shall be installed to the driveway of said lot, if the adjacent lot has sidewalk installed.(Rep. & Recr. #354)

(5) SIDEWALK INSPECTION.(Ordinance 636) The Public Works Director shall annually inspect 1/4 of the sidewalk in the city, with said inspection following a rotation basis, so that all of the city sidewalks are inspected at least every 4 years. Hazardous conditions reported to the Committee of the Whole will be reviewed with recommendations to the Common Council for possible action.

The Public Works Director will use discretion to determine if a sidewalk is defective. Criteria is based on evidence of deterioration and potential hazards due to concrete sections being broken, tilted, raised, chipped or displaced through overall use and freeze and thaw action. Criteria to be considered is:

- (a)  $\frac{3}{4}$ " or greater vertical displacement of a random crack or at a joint between sidewalks slabs
- (b) a horizontal random crack.
- (c) 4 or more random cracks in a sidewalk square.
- (d) vertical alignment irregularities.
- (e) a cracked sidewalk with pieces missing.

(6) REPAIR. (Repealed & Recreated #458) The Committee of the Whole shall recommend to the Common Council, who may order the repair or replacement of sidewalks pursuant to Chapter 66 Wisconsin Statutes. The abutting property owner is responsible for the cost of said repair. No person other than the City or its designated agent shall conduct said repair. Property owners, or an agent of their choosing, may solicit the Committee of the Whole or the City's Public Works Director to conduct said repair or replacement. All work shall conform to the

specifications as follows, and are subject to the review and/or inspection of the City's Public Works Director.

Concrete shall conform to ASTM C94 and the following:

- (a) Twenty-eight day compression strength (PSI): 4000
- (b) Maximum aggregate size:  $\frac{3}{4}$  inches
- (c) Minimum cement content: 5.5 bags/C.Y.
- (d) Air content: 65 +/- 1.5%

Grade/Elevation:

- (a) Match existing grades and adjacent structures
- (b) Terrace slope shall be  $\frac{1}{2}$  inch per foot toward street
- (c) Sidewalk slope shall be  $\frac{1}{4}$  inch per foot toward street

Forming/Finishing: (Ordinance 636)

- (a) Sidewalk must be pinned.
- (b) Standard sidewalk thickness shall be a minimum of 4 inches
- (c) Driveway sidewalk thickness shall be a minimum of 5 inches
- (d) Driveway approach thickness shall be a minimum of 6 inches
- (e) A minimum of 4 inches compacted road base material shall underline sidewalk
- (f) Construct control joints every 5 feet
- (g) Round edges  $\frac{1}{4}$  inch
- (h) Install light brush finish

(i) Apply curing compound

(7) DRIVEWAY APPROACHES. (Rep. & Recr. #354)

(a) Property owners shall have one (1) year to install a concrete driveway approach from the time curb and gutter and sidewalk has been installed adjacent to said owner's property. The driveway approach shall have six (6) inch thick concrete, installed according to the City of New Holstein Public Works Standards. Should the property owner not install a concrete approach within the said time period, the City of New Holstein, or its agent, shall install the driveway approach, and assess the property owner for the cost of installation.

(b) Where a driveway is to be installed in an area where six inch (6") vertical curb and gutter now exist, the property owner shall install a new driveway approach by either completely removing the existing curb and gutter and replaced with a new gutter/driveway approach per City standards or the new driveway approach shall be installed using the horizontal saw cut method. The cost of said installation shall be per the property owner. (CR #474)

6.03 **WATER AND SEWER MAINS.** (Rep. & Recr. #166) The abutting property owner shall bear 100% of the cost of laying sewer and water mains exclusive of the cost of hydrants. In assessing on a front foot basis, the property owner shall be allowed a credit for 1/3 of the long side on corner lots, such credit not to exceed 50 feet. (AM. #113). Whenever the Council determines to lay a sewer or water main at an existing street intersection, or at a street intersection which has been established by action of the Council, the Council shall proceed to lay such sewer or water mains on all street frontages of adjoining corner lots. (AM. #89) (AM. #238)

6.04 **SERVICE LATERALITY TO BE INSTALLED BEFORE PAVING.**  
Whenever the Common Council shall determine to lay a permanent pavement, or to pave or macadamize or repair and re-macadamize any street or portion thereof in which water or sewer mains have been laid, the Common Council shall proceed to lay the necessary water service pipes and service laterals before the improvement of such street. The expense of laying such water service pipes and sewer laterals with street mains shall be charged to and made a lien on the real estate to be served by such water service and sewer pipes. If the said expense shall not be paid within 30 days after completion thereof, the same shall be levied and collected as a special tax upon the real estate so to be served in accordance with section 62.16(2) (a), WI Stats.

6.05 **STREET EXCAVATIONS.** (Ordinance 636)

- (1) PERMIT REQUIRED. No person shall make or cause to be made an excavation or opening in any street, alley, highway, sidewalk or other right-of-way within the city without first obtaining a permit therefore from the Public Works Director.
- (2) FEE. The fee for such permit shall be established on the City's fee schedule set by the Common Council.
- (3) SAFETY REQUIREMENTS. Any person holding a permit under this section shall guard any hole, trench or ditch dug or excavation made by sufficient fence, railing, lights or otherwise, for the period of time the same shall be or continue unsafe or dangerous to the public.
- (4) DUTY TO RESTORE. Street and right-of-way excavations shall not be larger than necessary and shall not be left open longer than the necessity of the work demands. -Slurry fill mix without cement shall be used. The backfilling of the right-of-way excavation shall be done with gravel, firmly tamped in the presence of or under the supervision of the Director of Public Works. All earth, stone or other material shall be hauled away by the person authorized to make the excavation, and the pavement or top surface of the street shall be replaced as it was prior to the excavation.
- (5) CITY MAY RESTORE. If the person holding a permit hereunder shall neglect to repair or restore to its former condition any street, alley or sidewalk excavated, altered or taken up, within the time and in the manner directed by the Director of Public Works, the Director shall cause the same to be done at the expense of such person. The expense thereof, when chargeable to a lot owner, shall be certified to the City Clerk by the Director, and if not paid shall be carried into the tax roll as a special tax against the lot.

6.06 **PLACING BUILDING MATERIALS IN STREETS, ETC.** (Ordinance 636)

- (1) PERMIT REQUIRED. No person shall place any building material in or upon any street, alley, sidewalk or public grounds within the City without a permit from the Director of Public Works. The permit must be completed and approved before the project begins and should be applied for by the property owner.

- (2) FEE. The fee for such permit shall be established on the City's fee schedule set by the Common Council.
- (3) INDEMNITY AGREEMENT. No permit shall be granted unless the applicant shall file with the City Clerk an agreement that they will hold the City free from any and all damages, liability costs or expenses that may result in consequence of the granting of said permit or the occupancy of said street, alley, sidewalk or public grounds; that they shall put up and maintain such barriers and lights as will effectually prevent the happening of accidents in consequence of such occupancy or use; that they will obey all ordinances of the City and all rules which may be made in that behalf, and that at the expiration of said permit they shall leave the street, alley, sidewalk or public grounds in as good and clean condition as same was prior to the issuance of said permit.
- (4) OBSTRUCTION LIMITED. Such permit shall not authorize the obstruction of more than 1/3 of the roadway proper, or 1/3 of the sidewalk proper, nor for a longer period than one month, nor shall such material be so placed as to obstruct the flow of water in the gutters, and during the period of time such material shall remain upon such public street, alley, sidewalk or public way, public travel shall be protected by proper lights during the night time.

#### 6.07 **SNOW AND ICE REMOVAL.**

- (1) It is the responsibility of the owner, occupant, or person in charge of any lot abutting on a public sidewalk shall clear the sidewalk of snow within 24 hours after a snowfall and shall keep the same safe for pedestrian travel. Snow must be removed from the full width of the sidewalk. Property owners with dead end sidewalks are not required to remove snow on their sidewalks which extend beyond access to their residence. Violators of this Section shall be notified a minimum of 24 hours before the City makes their sidewalk safe for pedestrian travel.(Rep. and Recr. # 283, Rep & Rec #572)
- (2) SNOW ON STREETS. (Cr. #110) No person in clearing snow from their lots, sidewalks, driveways, filling stations, garages or other areas shall pile or distribute snow in the street, alleyway or any portion of the street right-of-way, within the City which in any way tends to narrow the traveled portion of the street, block the vision of motorists at intersections, prevent parking at the curb, or in any other way impede snow removal or create a traffic hazard. Persons having such an accumulation of snow shall remove the same at their own expense without depositing the same in the public streets or public right-of-way.

(3) SNOW REMOVAL BY THE CITY (Repealed & Recreated Ord #552, #556, #572, #636)

(a) Any person violating Section 6.07(1) shall be required to pay a fee and the cost for removal for the first offense, the fees are established by the Common Council on the City's fee schedule.

(b) HABITUAL OFFENDERS. Any person violating Section 6.07(1) shall be required to pay for the cost of snow removal plus forfeit a fee and penalty for the 2<sup>nd</sup> and 3<sup>rd</sup> notice and for each offense thereafter all fees and penalties are established on the City's fee schedule set by the Common Council.

(4) MAILBOX DAMAGE. Mailboxes shall be setback 6 to 8 inches from the front face of the gutter curb, to the mailbox door, and shall be installed at a height no less than 41 inches and no greater than 45 inches above the gutter flow line. The City shall not be responsible for damage of said mailbox.

#### **6.08 LITTERING STREETS, ETC. PROHIBITED.**

(1) DUTY OF ABUTTING PROPERTY OWNER. No person shall place, throw, leave or permit to remain, any rubbish, paper, dirt or filthy substance upon any street, gutter, sidewalk, alley or public ground in the City, and each owner or occupant of any building, dwelling house, store, shop, tenement, or structure of any kind and description fronting or abutting on any street, sidewalk, gutter, alley, or public ground, shall clean by sweeping, scraping or shoveling away any such rubbish, dirt or filth from the sidewalk by or before 12:00 noon of each day, and shall cooperate with the Street Commissioner in keeping the streets, alleys, gutters and public grounds in clean, tidy and orderly manner.

(2) LITTERING FROM VEHICLES. No person shall operate a vehicle on any street or alley so as to let fall or scatter upon the roadway any materials with which the vehicle may be loaded. No person shall place or drop glass, stone, metal, tacks, or like substances on any street or alley.

#### **6.09 USE OF STREETS, ALLEYS AND SIDEWALKS.**

(1) MOVING BUILDINGS.

- (a) **Permit Required.** No person shall move any building or structure along or across any street, alley or public way within the City without a written permit from the Director of Public Works.
  - (b) **Fee.** The fee for such permit shall be established on the City's fee schedule set by the Common Council.
  - (c) **Indemnity Agreement.** No permit shall be granted hereunder unless the applicant shall file with the City Clerk an agreement to indemnify the City for all damages, liability costs or expenses that may arise from the granting of the permit.
- (2) UNNECESSARY SMOKE, ETC. PROHIBITED. No person shall operate upon any street, alley or other public way in the City any motor vehicle in such manner as to permit to escape there from any unnecessary smoke, gas, steam or offensive odor, or in such manner as to discharge any embers, oil or residue from the fuel used in the operation thereof.
- (3) PEDDLING FROM VEHICLES: (Repealed & Recreated #461)
- (a) Individuals peddling from vehicles shall be required to obtain a direct sellers permit per City of New Holstein Municipal Code 10.03. Additional requirements for mobile ice cream vendors and other vehicles vending products to children are as follows.
    - (1) All drivers of ice cream trucks and other vehicles vending products to children shall submit a copy of their valid Wisconsin driver's license to the city and obtain the permit described in this article before operating such vehicle. A Valid Wisconsin driver's license is required.
    - (2) Individuals peddling from vehicles, as a condition to obtaining and retaining a permit, shall obtain, and maintain, and provide proof of public liability and property damage insurance with an insurance company licensed to do business in the State of Wisconsin, which shall protect the public against any and all claims for damages for personal injuries, including death, and against claims for property damages which may arise out of or in connection with any operations or activities of the individual(s) peddling from a vehicle in the exercise of any of the privileges herein granted. The amount of such insurance shall be as follows: insurance in the amount of not less than one hundred thousand dollars (\$100,000.00) for injuries, including death, to any one person, and subject to the same limit for

each person in an amount of not less than three hundred thousand dollars (\$300,000.00) for injuries, including death, to more than one person on account of any one accident,, and property damage insurance in an amount not less than twenty-five thousand dollars (\$25,000.00) for each accident. Such insurance shall be kept in full force and effect at all times. In addition to the general liability insurance required above, all permit applications shall provide proof of motor vehicle insurance shall provide for insurance of \$100,000.00 per person/\$300,000.00 per accident for personal injuries. A certificate of insurance shall be required as proof of insurance.

- (3) All applicants shall be subject to a criminal history background check, and shall consent to such check as a condition of application. A conviction for any offense involving actual or attempted homicide, kidnapping, assault or assaultive offenses, unlawful sexual conduct or assault, theft (including robbery or burglary), prostitution or obscenity shall be grounds for disqualification of an applicant.
- (4) Signs stating “WATCH FOR CHILDREN” must be provided on the front, back, and both sides of the vehicle in at least four-inch letters of contrasting colors.
- (5) The company name, address, and phone number must be on both sides of the vehicle in at least three-inch letters of contrasting colors.
- (6) A serving window, capable of being closed when not in use, must be provided and must be located on the curbside only.
- (7) Left and right outside rear view mirrors as well as two additional outside wide-angle mirrors on the front and back of the vehicle must be provided to enable the driver to see around the entire vehicle.
- (8) Operable yellow or amber flashing hazard lights that are clearly visible not less than 100 yards from the mobile unit under average daylight conditions shall be provided. Such lights shall be mounted no more than 12 inches below the roof of the mobile unit. No fewer than two lights shall be visible from each approach.
- (9) A real bumper cover shall be installed to prevent children from standing or jumping on the rear of the vehicle.
- (10) Mobile ice cream trucks are permitted to vend in an area for no more than 15 minutes, then they must move to another location.

- (11) Mobile ice cream vending is prohibited within City of New Holstein parks.
- (12) Mobile ice cream trucks shall not vend within one block of any block containing a school during school hours or within one hour before or after school hours on a day that school is scheduled to be in session.
- (13) Mobile ice cream trucks shall not vend within 100 feet from an intersection.
- (14) Mobile ice cream vending may only occur from 10:00 AM to one-half hour before sunset.
- (15) Use of sound equipment shall be limited to music or human speech.
- (16) Sound shall not be audible more than 100 yards from the truck. Sound shall be produced at no more than 80 DBA.
- (17) Sound equipment may only be used from 10:00AM until one-half hour before sunset.
- (18) Sound shall not be broadcast within 100 yards of schools during school hours while school is in session, or within 100 yards of hospitals, churches, courthouses, funeral homes, or cemeteries.
- (19) Sound shall be turned off while the vehicle is stopped for vending.
- (20) Drivers shall check around the vehicle before leaving the area to ensure that children are not remaining. When handing the purchased product to the children, drivers shall make certain traffic is clear, in case a child leaves the truck immediately and fails to observe the hazard of oncoming traffic.
- (21) Child customers shall not be allowed inside the vehicle. This provision shall not apply to children related to the driver within the third degree of consanguinity or affinity, while riding with the driver along the sales route.

## 6.10 OFFICIAL MAP.

(1) ESTABLISHMENT. There is hereby established an Official Map of the City of New Holstein showing the location and width of streets, highways and parkways as laid out, adopted and established. Such Official Map consists of two sheets: Sheet 1 (Street Development Plan), showing the location and width of streets within the City limits and adjacent thereto; and Sheet 2 of 2 (Street Extension Plan), showing the location and width of the extension of the major street system of the City into the adjacent unincorporated area over which the City can exercise extra territorial jurisdiction in accordance with section 62.23(6) WI Stats.

(b) **Uniform Street Numbering System.** All lots and parts of lots in the City shall be numbered in accordance with the house numbering map on file in the Office of the City Clerk which is designated as "a house numbering map." All lots and parts of lots hereafter platted shall be numbered to conform as nearly as possible to the general scheme of numbering as outlined on said map, and numbers shall be allocated as nearly as possible of one number to each 25 feet. Wisconsin Avenue shall be and constitute the north and south base line, and Monroe Street shall be and constitute the east and west base line, for street numbering.

(c) Any owner or occupant of any building or tenement fronting upon any street in the City who fails after 30 days after the completion of such building or tenement to attach securely or apply to the front of the same in a conspicuous position and not higher than the first or ground story of said building so that the same can be plainly seen from the street, the proper number of such building or tenement as inscribed upon said map in figures not less than 3 inches in height shall be deemed to be in violation of the Section, and may be prosecuted at any time after 5 days after the Chief of Police shall serve written notice on such owner or occupant demanding that he properly number the same.

(2) PLAT APPROVAL. No land subdivision plat shall be approved unless such plat conforms to the Official Map.

(3) PERMITS. For the purpose of conserving the integrity of the Official Map, no building shall be erected or located within the bed of any street, highway, or parkway shown on the Official Map unless a permit therefore shall first have been applied for and issued in accordance with Section 62.23(6)(d),(e), (f),and (g), Wisconsin Statutes. The applicant for such a permit shall submit to the Building Inspector, with his application, an accurate plot plan, certified by a qualified surveyor, showing the location of the proposed building with a reference to any street, highway or parkway shown on the Official Map.

(4) **CHANGES AND AMENDMENTS.** The Common Council may, whenever and as often as it may deem it for the public interest, and after a public hearing as provided in section 62.23(6)(b), Wisconsin Statutes, change or add to the Official Map of the City so as to establish the exterior lines of planned new streets, highways and parkways or to widen, extend or close existing streets, highways or parkways.

(5) **REGISTRATION.** The City Clerk shall file with the Register of Deeds of Calumet County, a certificate showing that the City of New Holstein has established an Official Map and shall do likewise as to any changes or additions.

**6.11 TREE PLANTING, PRUNING, AND REMOVAL.** (Repealed & Recreated #524)  
(Rep & Rec #573)(Recreated # 636)

(1) **PURPOSE AND INTENT.** It is the intent of the City of New Holstein to regulate and establish policy for the planting, removal, maintenance, and protection of trees, shrubs, in or upon all public areas of the City. The purpose of said policy is to promote and enhance the beauty and general welfare of the city through wise tree husbandry; to eliminate and guard against dangerous conditions which may result in injury to persons using the streets, alleys, sidewalks, and other public areas; to prohibit the undesirable and unsafe planting, removal, treatment, and maintenance of trees and shrubs located in public and terrace areas; and to guard all trees and shrubs, both public and private within the City, against the spread of disease, insects, or pests so as to promote and protect the public health and safety by regulating tree planting, tree maintenance and tree removal.

(2) **DEFINITIONS.** The following terms shall have the meanings indicated in this section.

(a) Person. Any individual or entity.

(b) Public Area. Land owned, controlled, or leased by the City of New Holstein, including but not limited to, road right-of-way, terraces, and park lands.

(c) Public Nuisance.

1. Communicable Disease. Any potentially fatal disease infecting trees growing on either public or private property that is capable of infecting other trees within the City.

2. Hazardous Trees. Any tree that displays a loss in structural integrity, limbs and/or trunk, so as to represent a danger to the general public.

3. Insect Infestations. Existing insect populations that severely threaten the life of the tree(s) and have the potential to spread and cause damage to other trees within the City.

- (d) Terrace. The area between the sidewalk and street or where there is no sidewalk, the area between the right-of-way line and street.
- (e) Tree. Any woody plant which reaches a mature height taller than 15 feet.

(3) FORESTRY DIRECTOR. The Director of Public Works shall serve as the Forestry Director.

(a) Responsibilities.

1. The Forestry Director will be responsible for the administration of all maintenance activities, including planting of all trees growing in public areas and the administration and enforcement of this section.
2. The Forestry Director shall keep and maintain and make available copies of the City's Tree Ordinances and the Street Tree Guide.
3. The Forestry Director shall issue and administer permits for the pruning, removal, and planting of trees in public areas by the adjacent property owner.

(4) PUBLIC NUISANCE ABATEMENT. The City shall have the right in the interest of public health and safety and pursuant to its police power, to abate public nuisances as defined in this section as follows:

(a) Abatement Order. Upon investigation and determination by the Forestry Director that a tree constitutes a public nuisance, the Forestry Director shall cause to be served upon the property owner a written abatement order detailing the nature of the nuisance; the particular tree or trees affected; the method or manner of abatement (including wood disposal); and the date by which such abatement must take place which shall be at least 30 days from when the Abatement Order is served on the property owner.

(b) Appeal. If a property owner disputes the Abatement Order, such owner may appeal the order by filing with the City Administrator a written request to appeal the order. Such request shall be filed within 10 days of service of the Abatement Order and shall state the basis for the appeal. The appeal shall be heard within 30 days by the City of New Holstein Common Council. Written notice of the date and time of the appeal hearing shall be mailed by the City Administrator to the property owner at least 10 days before the hearing. The property owner shall present his or her basis for the appeal. The Forestry Director shall also appear to respond to the appeal as necessary. The City of New Holstein Common Council

shall affirm, reverse or modify the Abatement Order. Such decision shall be final and binding upon the property owner.

(c) Noncompliance. If a property owner fails to comply with the Abatement Order, or the decision of the committee upon appeal, then the City may enter upon the property, or contract with a third party to enter upon the property to abate the nuisance by removing part or all of the affected tree or trees. The cost of such removal and disposal shall be assessed against the property on which was located the public nuisance. No damages shall be paid to any property owner to remove any tree or part thereof under this section.

## (5) TREE MAINTENANCE.

### (a) Publicly Owned Trees.

1. Except as provided in subsection (7), the City shall maintain any tree growing on public areas.
2. The City shall utilize those standards for pruning of trees on public property following arboricultural standards for pruning.
3. The City shall routinely monitor and maintain adequate clearance for sidewalk and vehicular travel, traffic signs, lights and other structures.
4. The City shall routinely survey and remove, or cause to be removed, those limbs of sufficient size to cause either bodily harm or property damage, that are dead, dying, or broken.
5. New Holstein Utilities shall notify the Forestry Director prior to the pruning of any tree on a public area for the purpose of maintaining utility line clearance. All pruning shall comply with accepted arboricultural standards for line clearance.
6. No person shall prune more than 20% and/or remove any tree on a public area without a permit, issued free of charge by the Forestry Director. All pruning shall comply with arboricultural standards.
7. Any person pruning or removing any tree on a public area shall be held liable to public property as the result of such pruning and/or removal.

(b) Privately Owned Trees. Persons who own property adjacent to public areas shall prune and/or remove any tree so as to maintain adequate clearance for

sidewalk and vehicular travel, traffic signs, lights and other publicly owned structures.

**(6) TERRACE TREE PLANTING POLICIES.**

- (a) No person or entity shall plant a tree in the terrace without first obtaining a permit, free of charge, from the Forestry Director and shall follow the following procedures.
- (b) No tree shall be planted in a terrace with a width of less than 6 feet.
- (c) No tree shall be planted closer than 60 feet from the nearest road intersection.
- (d) No tree shall be planted closer than 15 feet from the adjacent properties approach drive.
- (e) No tree shall be planted within 15 feet of a fire hydrant.
- (f) No tree shall be planted within 15 feet of a utility pole.
- (g) Only the trees listed in the City's Terrace Tree List shall be planted in the terrace.
- (h) Upon receiving a planting permit, the property owner agrees to assume the responsibility of maintaining and caring for the trees planted and agrees to enter into a maintenance agreement with the City. The agreement will be the signed and approved permit application. Tree maintenance includes, but is not limited to, maintaining adequate clearance defined in Section 5.
- (i) The length of the maintenance agreement is for the life of the tree(s) planted within the terrace, including the eventual removal of the tree and stump.
- (j) The obligation of the property owner to maintain a planting permit and assume the responsibility and maintenance of caring for the trees described above shall apply to any trees planted by the City, a utility, a service organization, or other entity involved in a tree planting project. Prior to the planting of any trees in a terrace by such an entity, such entity shall inform the adjacent property owner of the obligation to obtain a permit and assume responsibility for maintenance and care of the trees in the terrace.

(7) REMOVAL, DESTRUCTION AND INJURY OF TREES IN PUBLIC AREAS. No person shall remove, destroy or injure a tree on a public area, other than in conformity with this section.

6.12 **PENALTY.** Any person who shall violate any provision of this chapter shall be subject to a penalty as provided in section 20.04 of this code.

6.13 **PERSONS NOT TO CONGREGATE ON OR SELL MERCHANDISE ON STREET OR SIDEWALKS.**

(1) No persons shall congregate on any public sidewalk or any part of a public street or street corner so as to obstruct the same, nor shall any person or persons use any sidewalks or any part of a street as a place for vending, selling, or dealing in merchandise, except as provided in Section 10.03 of the Municipal Code. (Cr. #290)