Title II – Chapter 3

Public Streets and Sidewalks

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3.01 **Public Determination of Need for Sidewalks**. A determination of need for sidewalks in the Village shall be done on a logical basis considering the safety of residents and conditions existing on the site. The requirements of this Section may be applied in any consideration of Village street or capital projects, and shall be applied during street reconstruction projects.

(1) Definitions:

(a) Reconstruction. Reconstruction includes projects wherein the wearing surface is completely removed or pulverized and new surface is installed. It does not include crack filling, slurry coating, pothole filling or overlay work.

(b) Destination Site. A destination site as used here includes; libraries or cultural centers, senior centers and other sites which are open to the public and regularly attract visitors.

(2) Sidewalk Decision Matrix. The matrix which follows shall determine whether sidewalks will be installed in conjunction with street projects. The following matrix establishes the minimum requirement for sidewalks in the Village. The Village Board may, at its sole discretion, direct the installation of sidewalks in locations where the matrix does not require installation.

STREET CLASS	ARTERIAL	COLLECTOR	THROUGH	LOCAL	LOW USE
CONDITIONS - IF SITE IS:					
ON A DIRECT ROUTE TO A SCHOOL, and WITHIN 4 BLOCKS OF THE SCHOOL	YES	YES	YES	YES	OPTIONAL
A DIRECT ROUTE CONNECTING POPULATION CENTER TO A DESTINATION SITE and WITHIN 4 BLOCKS OF THE SITE	YES	YES	YES	OPTIONAL	OPTIONAL
A DIRECT ROUTE TO RECREATION SITE / PARK	YES	YES	YES	OPTIONAL	OPTIONAL
A DIRECT ROUTE TO COMMERCIAL	YES	YES	OPTIONAL	OPTIONAL	OPTIONAL

CENTER					
WITHIN 2 BLOCKS OF A CHURCH	**YES**	**YES**	**OPTIONAL**	**OPTIONAL**	**OPTIONAL**
WITHIN 2 BLOCKS OF EMPLOYMENT CONCENTRATION	**YES**	**YES**	**OPTIONAL**	**OPTIONAL**	**OPTIONAL**
WITHIN 2 BLOCKS OF EXISTING SIDEWALK (same street)	**YES**	**YES**	**YES**	**OPTIONAL**	**OPTIONAL**

(3) Interpretation of Decision Matrix.

(a) The following terms used in the matrix shall have the meaning assigned to them in the listed references to Title III, Chapter 1 or Village Ordinances.

1. Low Use Streets. Section 1.02(1)(n)
2. Local Streets. Section 1.02(1)(m)
3. Through Streets. Section 1.02(1)(ee)
4. Collector Streets. Section 1.02(1)(f)
5. Arterial Streets. Section 1.02(1)(b)

a. If project site conditions lead to a determination of more than one 'yes' in the matrix, sidewalks shall be installed on both sides of the street.

b. If project site conditions lead to a determination of one 'yes' in the matrix, sidewalks must be installed on at least one side of the street. If the site condition with the 'yes' applies more strongly to one side of the street than the other, the single sidewalk shall be installed on that side.

c. If site conditions lead to a determination of more than one 'Optional', sidewalks shall be installed on at least one side of the street. If the site conditions leading to multiple 'Optional' findings apply more strongly to one side of the street than the other, the single sidewalk shall be installed on that side.

d. If curb and gutter are not installed and not planned during the project in question, sidewalks will not normally be installed. Sidewalks are not normally practical with rural street cross sections.

(4) Special Assessment. The terms of Section 3.03, Special Assessment for Public Improvements, shall be applied as appropriate.

3.02 **Street and Sidewalk Grades.**

(1) Establishment. The grade of all streets, alleys and sidewalks shall be established by resolution of the Village Board and recorded in the office of the Village Clerk. No street, alley or sidewalk shall be worked until the grade thereof is established.

(2) Alteration of Grade Prohibited. No person shall alter the grade of any street, alley, sidewalk or public ground, or any part thereof, in the Village unless authorized to do so by the Village Board. All such alterations of grade shall be recorded in the office of the Village Clerk by the Village Clerk.

(3) Penalty. The penalty for violation of any provision of this section shall be a forfeiture of not less than $25.00 nor more than $100.00, together with the costs of prosecution.

3.03 **Special Assessment for Public Improvements.**

(1) (a) The Village of Poynette by resolution of its Village Board may levy and collect special assessments upon property in a limited and determinable area for special benefits conferred upon such property by any municipal work or improvement; and may provide for the payment of all or any part of the cost of the work or improvement out of the proceeds of such special assessments.

(b) The amount assessed against any property for any work or improvement which does not represent an exercise of the police power shall not exceed the value of the benefits accruing to the property therefrom, and for those representing an exercise of the police power, the assessment shall be upon a reasonable basis as determined by the Village Board.

(2) Prior to making any such special assessments, the Village Board shall declare by preliminary resolution its intention to exercise such powers for a stated municipal purpose. Such resolution shall describe generally the contemplated purpose, the limits of the proposed assessment district, the number of installments in which the special assessments may be paid, or that the number of installments will be determined at the hearing required under subsection (7), and direct the proper municipal officer or employee to make a report thereon. Such resolution may limit the proportion of the cost to be assessed.

(3) The report required by subsection (2) shall consist of:

(a) Preliminary or final plans and specifications.

(b) An estimate of the entire cost of the proposed work or improvement.

(c) An estimate, as to each parcel of property affected, or:

1. The assessment of benefits to be levied.
2. The damages to be awarded for property taken or damaged.

3. The net amount of such benefits over damages or the net amount of such damages over benefits.

(d) A statement that the property against which the assessments are proposed is benefited, where the work or improvements constitute an exercise of the police power. In such case the estimates required under subsection (3)(c) shall be replaced by a schedule of the proposed assessments.

(4) A copy of the report when completed shall be filed with the Village Clerk for public inspection.

(5) The cost of any work or improvement to be paid in whole or in part by special assessment on property may include the direct and indirect cost thereof, the damages occasioned thereby, the interest on bonds or notes issued in anticipation of the collection of the assessments, a reasonable charge for the services of the administrative staff of the Village, and the cost of architectural, engineering and legal services, and any other item of direct or indirect cost which may reasonably be attributed to the proposed work or improvement. The amount to be assessed against all property for any such proposed work or improvement shall be apportioned among the individual parcels in the manner designated by the Village Board.

(6) If any property deemed benefited shall by reason of any provision of law be exempt from assessment therefore, such assessment shall be computed and shall be paid by the Village.

(a) A parcel of land against which has been levied a special assessment for the sanitary sewer or water main laid in one of the streets upon which it abuts, shall be entitled to such deduction or exemption as the Village Board determines to be reasonable and just under the circumstances of each case, when a special assessment is levied for the sanitary sewer or water main laid in the other street upon which such corner lot abuts. The Village Board may allow a similar deduction or exemption from special assessments levied for any other public improvement.

(7) Upon the completion and filing of the report required by subsection (3), the Village Clerk shall cause notice to be given stating the nature of the proposed or approved work or improvement, the general boundary lines of the proposed assessment district, the place and time at which the report may be inspected, and the place and time at which all persons interested, or their agents or attorneys, may appear before the Village Board or committee thereof or the Board of Public Works and be heard concerning the matters contained in the preliminary resolution and the report. Such notice shall be given by publication of a copy of the notice as a Class 1 Notice in the official newspaper of the Village, and a copy of such notice shall be mailed to every interested person whose post office address is known, or can with reasonable diligence be ascertained, at least 10 days before the hearing or proceeding. The hearing shall commence not less than 10 and not more than 40 days after the publication or posting as provided in this section.

(8) (a) After the hearing on the report and proposed assessments, the Village Board may approve, disapprove or modify, or it may re-refer the report prepared pursuant to subsections (2) and (3), to the designated officer or employee with such directions as it

deems necessary to change the plans and specifications and to accomplish a fair and equitable assessment.

(b) If an assessment of benefits is made against any property and an award of compensation or damages be made in favor of the same property, the Village Board shall assess against or award in favor thereof only the difference between such assessment of benefits and the award of damages or compensation.

(c) 1. The Village Board shall, if the work or improvement has not previously been authorized or approved, approve the work or improvement and the plans and specifications therefore and the report, and by resolution direct that the same be carried out and paid for in accordance with the report as finally approved.

2. If the work or improvement and the plans and specifications therefore have been approved by the Village Board prior to the filing of the report herein required or prior to the hearing thereon, or if the work has been commenced or completed prior to filing of the report or hearing herein provided, then the Village Board shall by final resolution confirm the report as made or as modified pursuant to its direction, and provide for payment in whole or in part by assessments therein provided.

(d) The Village Clerk shall publish the final resolution as a Class 1 Notice in the official newspaper of the Village, and a copy of such resolution shall be mailed to every interested person whose post office address is known, or can with reasonable diligence be ascertained.

(e) When the final resolution is published, all work or improvements therein described, and all awards, compensations and assessments arising therefrom are deemed legally authorized and made, subject to the right of appeal under § 66.0703(12), Wis. Stats.

(9) Where more than a single type of project is undertaken as part of a general improvement affecting any property, the Village Board may finally combine the assessments for all purposes as a single assessment on each property affected, provided that each property owner shall be enabled to object to any such assessment for any single purpose or for more than one purpose.

(10) Whenever the actual cost of any project shall, upon completion or after the receipt of bids, be found to vary materially from the estimates, or whenever any assessment is void or invalid for any reason, or whenever the Village Board shall determine to reconsider and reopen any assessment, it is empowered, after giving notice as provided in subsection (7) and after a public hearing, to amend, cancel or confirm any such prior assessment, and thereupon notice of the resolution amending, canceling or confirming such prior assessment shall be given by the Clerk as provided in subsection (8)(d).

(11) If the cost of the project shall be less than the special assessments levied, the Village Board, without notice or hearing, shall reduce each special assessment proportionately, and where any assessments or installments thereof have been paid, the excess over cost shall be applied to reduce succeeding unpaid installments where the property owner has elected to pay in installments, or refunded to the property owner.

(12) Pursuant to subsection (12)(f) of § 66.0703, Wis. Stats., it shall be a condition to the maintenance of any appeal that any assessment appealed from shall be paid as and when the same or any installments thereof become due and payable, and upon default in making such payment any such appeal shall be dismissed.

(13) Pursuant to subsection (12) of § 66.0703, Wis. Stats., every special assessment levied under this section shall be a lien on the property against which it is levied on behalf of the Village or the owner of any certificate, bond or other document issued by public authority, evidencing ownership of or any interest in such special assessment, from the date of the determination of such assessment, by the Village Board. The Village Board shall provide for the collection of such assessments and may establish penalties for payment after the due date. The Village Board shall provide that all assessments or installments thereof which are not paid by the date specified shall be extended upon the tax roll as a delinquent tax against the property and all proceedings in relation to the collection, return and sale of property for delinquent real estate taxes shall apply to such special assessment, except as otherwise provided by statute.

(14) (a) In addition to all other methods provided by law, special charges for current services rendered may be imposed by the Village Board by allocating all or part of the cost to the property served. Such may include, without limitation because of enumeration, snow and ice removal, weed elimination, street sprinkling, oiling and tarring, repair of sidewalks or curb and gutter, garbage and refuse disposal, sewer service and tree care. The provision for notice of such charge shall be optional with the Village Board, except that in the case of street tarring and the repair of sidewalks, curb or gutters, 20 days' notice shall be given in the official newspaper of the Village, and a copy of such notice shall be mailed to every interested person whose post office address is known, or can with reasonable diligence be ascertained, at least 10 days before the hearing or proceeding. Such notice shall specify that on a certain date a hearing will be held by the Village Board as to whether the service in question shall be performed at the cost of the property owner, at which hearing anyone interested will be heard.

(b) Such special charges shall not be payable in installments. If not paid within the period fixed by the Village Board, such a delinquent special charge shall become a lien as provided in subsection (13) as of the date of such delinquency, and shall automatically be extended upon the current or next tax roll as a delinquent tax against the property and all proceedings in relation to the collection, return and sale of property for delinquent real estate taxes shall apply to such special charge.

(c) Subsection (2) shall not be applicable to proceedings under this subsection.

(15) If any special assessment or special charge levied pursuant to this section shall be held invalid because such statutes shall be found to be unconstitutional, the Village Board may thereafter reassess such special assessment or special charge pursuant to the provisions of any applicable law.

(16) The Village Board may, without any notice of hearing, levy and assess the whole or any part of the cost of any municipal work or improvement as a special assessment upon the property specially benefited thereby whenever notice and hearing thereon is in writing waived by all the owners of property affected by such special assessment.

(17) Notwithstanding any other provision of law or of this or any other ordinance or resolution applicable hereto, it is specifically intended and provided by this section that the Village may levy special assessments for public work or improvement against property benefited thereby either before or after the approval of the work or improvement, or before or after the approval of plans and specifications, or before or after contracting for the work or improvement to be completed, or before or after the completing of the work or improvement.

3.04 **Installation and Repair of Sidewalks, Paved Trails and Paths.**

(1) Construction of Sidewalks - Permit and Grade. (AM 03 25 02 ORD 02-314)

(a) No person shall build or construct any sidewalk, paved trail or path in the Village of Poynette without receiving a written permit as hereinafter provided.

(b) Application for a permit to build sidewalks, paved trails or paths shall be made to the Village Clerk upon blanks provided for that purpose.

(c) Upon the filing of an application, the Village shall forthwith proceed to properly locate and stake out said sidewalks, paved trails or paths (if such trails or paths lie on easements across private land or in public rights-of-way, but not if such trails or paths lie in public parks) according to the plans on file in the Village office and shall thereupon give to the applicant a permit signed by the Village Clerk. Such permit shall specify the breadth of said sidewalks, paved trails or paths (if such trails or paths lie on easements across private land or in public rights-of-way, but not if such trails or paths lie in public parks) and the materials to be used in the construction of same in accordance with the provisions of subsection (2).

(2) Materials and Specifications. Specifications and materials for the construction of sidewalks, paved trails or paths shall be as described in the Poynette Standards and Practices manual.

(3) New Sidewalks - Repairs and Partial Replacement of Existing Sidewalks.

(a) Any public sidewalks, paved trails or paths (if such trails or paths lie on easements across private land or in public rights-of-way, but not if such trails or paths lie in public parks) hereafter built or constructed in the Village and not laid in accordance with the standards of this Ordinance is hereby declared to be a public nuisance. The Public Works Committee is hereby authorized to cause the removal and replacement of any such sidewalks, paved trails or paths (if such trails or paths lie on easements across private land or in public rights-of-way, but not if such trails or paths lie in public parks) pursuant to the procedures provided by § 66.0907, Wis. Stats., or any other applicable provision of law.

(b) The standards for building and construction of sidewalks, paved trails or paths (if such trails or paths lie on easements across private land or in public rights-of-way, but not if such trails or paths lie in public parks) provided by this section do not apply to the making of minor repairs to or replacement, by abutting property owners, of a portion of a concrete sidewalk which is in existence on or before, and any such sidewalk may be repaired or partially replaced without permit with concrete construction and in conformity with the existing grade and location of the sidewalk being repaired or partially replaced provided that such sidewalk shall be repaired or partially replaced so as to at all times be reasonably safe and adequate for pedestrian travel, and further provided that the Public Works Committee may require the repair or partial replacement of an existing sidewalk pursuant to the provisions of § 66.615, Wis. Stats., or any other applicable provision of law, and may at any time cause any sidewalk found to be unsafe, defective, improperly located, or otherwise deficient (whether in existence on or before June 10, 1965) to be entirely removed and replaced pursuant to the standards set forth in this section.

(4) Costs.

(a) Upon application for permit being made, the Village of Poynette shall incur and pay the expense of locating and staking to grade public sidewalks, paved trails or paths (if such trails or paths lie on easements across private land or in public rights-of-way, but not if such trails or paths lie in public parks) in the Village.

(b) The abutting property owners shall pay for all other costs of building and constructing of sidewalks, paved trails or paths (if such trails or paths lie on easements across private land or in public rights-of-way, but not if such trails or paths lie in public parks) and for all necessary repairs thereto.

(4) Penalty. The penalty for violation of any provision of this section shall be a forfeiture of not less than $10.00 nor more than $50.00, together with the costs of prosecution.

3.05 **Street Excavations.**

(1) Permit Required. An excavating permit must be obtained from the Village Clerk before any person shall do any excavating in any public street, alley or upon any other public

property for the purpose of installing, repairing or replacing any water or sewer lateral. A deposit as specified on the Administrative Fees, Charges and Deposits Schedule in Title VI, Chapter 2 Administrative Fees, Charges and Deposits shall be paid at the time the permit application is filed or, at applicant's option, the actual cost of the street opening may be deferred and placed on the tax roll as a special charge to be paid with the general real estate taxes assessed and levied for the year in which the application is filed, together with interest thereon from the date of filing the application to the date of payment at the then current rate charged for delinquent real estate taxes. If the actual cost of saw cutting and replacing the pavement is less than the deposit, the Village Treasurer shall refund the difference to the applicant. If the actual cost exceeds the deposit, the applicant shall pay the difference to the Village within 30 days after receipt of a bill from the Village Treasurer. A certificate of insurance in the form required by subsection (2) shall be filed with the application. The Village will saw cut and replace the pavement. The person obtaining the permit shall be responsible for all excavating, backfilling, compacting, and safety precautions. This section shall not apply to any contract let by the Village.

(2) Certificate of Insurance.

(a) The certificate of insurance shall contain a statement that the applicant is the named insured under a current policy of comprehensive general liability insurance applicable to applicant's operations with combined single limits of at least $100,000 for any one occurrence.

(b) The certificate of insurance shall provide that the insurance coverage shall not be terminated except upon 30 days written notice of termination to the Village Clerk.

(3) Penalty. The penalty for violation of any provision of this section shall be a forfeiture of not less than $600.00 nor more than $1,000.00 together with the costs of prosecution.

3.06 **Snow and Ice Removal.**

(1) The owner or occupant of any premises shall remove from all sidewalks, paved trails or paths (if such trails or paths lie on easements across private land or in public rights-of-way, but not if such trails or paths lie in public parks) abutting thereon all snow and ice within 24 hours after cessation of snowfall. The owner or occupant of property adjacent to a municipal fire hydrant shall also remove sufficient snow and ice from the area surrounding the hydrant that fire department personnel have adequate access to all sides of the hydrant having hose connection devices. If such owner or occupant fails to so remove such snow and ice:

(a) The Poynette Police Department shall issue warning that the sidewalk, paved trail path or hydrant in question must be cleared within 48 hours.

(b) The 48-hour notice described above shall be issued only once during a snow season. A snow season, for purposes of this Ordinance, shall be the period beginning on

November 15th of one year and extending to April 15th of the following calendar year. If a landowner, having been notified within the current snow season, leaves sidewalks, paved trails or paths for which (s)he is responsible uncleared, the Village Public Works Department shall, upon notification of such uncleared sidewalk, paved trail or path, proceed immediately to cause such to be removed at the expense of the owner or occupant.

(c) If ice has so formed that it cannot be removed, the owner or occupant shall keep the same sprinkled with ashes, salt, sawdust or sand.

(d) If the sidewalk, paved trail or path in question is not cleared after 48 hours from such notice – or for second offences within a snow season, 24 hours after cessation of the snowfall – the Village Public Works Department shall, without further notice, cause such to be removed, and report the cost thereof to the Village Clerk, who shall invoice such cost to the landowner with an additional charge as specified on the Administrative Fees, Charges and Deposits Schedule in Title VI, Chapter 2 Administrative Fees, Charges and Deposits.

(2) Except as noted in a., below, persons removing ice or snow from private property shall not move or cause such snow or ice to be moved onto or across a public way or other area where snow removal is performed by Village staff. Property owners or occupants shall be held responsible for the actions of persons employed by them for the removal of ice and snow from their property.

(a) Owners or occupants of property in the North 100 block of Main Street ONLY may deposit snow in the parking lane of the street abutting their property for later pickup by Village crews. (Amended 11-3-2014)

(b) This includes but is not limited to pushing, throwing, dumping or mechanical blowing of snow or ice onto streets, sidewalks or vision corners at intersections.

(c) Should snow or ice be removed from private property into or across a public way, the Village Public Works Department shall, with or without notice, cause such snow or ice to be removed, and report the cost thereof to the Village Clerk, who shall invoice such cost to the landowner with an additional charge as specified on the Administrative Fees, Charges and Deposits Schedule in Title VI, Chapter 2 Administrative Fees, Charges and Deposits.

(3) Invoices issued by the Clerk based upon (1) and (2), above, if unpaid, may be placed on the tax roll as a special charge for current services (WI Statutes §66.0627), or such cost and added charge may be recovered in an action against the owner or occupant.

3.07 **Planting, Removal, Trimming and Maintenance of Trees.**

(1) Administration and Enforcement Body. The Poynette Park and Recreation Commission is, pursuant to §§ 27.08, 27.09, and 27.13, Wis. Stats., hereby designated "Board" to

administer and enforce the provisions of this section subject, however, to the supervision and control specifically reserved to the Village Board under this section.

(1A) Definitions.

Boulevard or terrace area. Boulevard or terrace areas are defined as the land between the location of the street curb and the edge of the sidewalk closest the street. Where there is not sidewalk, the area six (6) feet from the curb line shall be deemed the boulevard or terrace. Where there is no curb, the area between the edge of pavement and the edge of sidewalk closest to the pavement shall be deemed the boulevard or terrace. Where there is no sidewalk or curb, the area six (6) feet from the edge of the pavement measured toward the lot or parcel shall be considered the boulevard or terrace.

Public area or place. All public parks and other lands owned, controlled, or leased by the Village except boulevard/terrace areas.

Public right-of-way. Absent evidence to the contrary, the public right-of-way is the part of a street measured thirty-three (33) feet from the centerline of the roadway or alley measured ten (10) feet from the center of the alleyway.

Amended by Ord. No. 15-524 on10/12/2015

(2) Jurisdiction of "Board". The "Board" shall have jurisdiction over the planting, transplanting, removal, trimming, spraying and other care, protection, and maintenance of all trees and shrubs on or in that part of every street in the Village, the grade of which has been established, lying between the curb and lot line, and in the center and side plots of all boulevards and parkways, and in all public parks and grounds belonging to the Village and pursuant to the police power of the Village, is given such jurisdiction as to all trees within the Village wherever located insofar as is necessary to control and eliminate hazardous and dangerous conditions to the public, including the prevention and spread of disease and pests which tend to adversely effect, damage, or destroy life or property.

(3) Setting Out, Planting and Removal of Living Shade Trees By "Board"; Notice Provided. Whenever the "Board" proposes the setting out, planting or removal of any living shade tree, it shall give two weeks written notice to the owner of the lot or parcel on which such tree stands or will stand (or owner of lot immediately abutting a public street, if such shade tree stands or extends into, or will stand or extend into, a public street) or his agent, or if neither is known and there be a tenant occupying said property then to such tenant, of a time and place at which the contemplated work will be considered by the "Board" and the Village forester, specifying in detail the street, avenue or boulevard and portion thereof, upon or from which trees are proposed to be planted or removed, and the general nature and character of the changes and improvements contemplated. After such hearing, the Village forester, subject to the direction of the "Board" shall abandon the proposed work or proceed with it as he believes the best interest of the public requires.

(4) Trees and Shrubs To Be Trimmed Over Public Streets and Places.

(a) Trees and shrubs standing in or upon any boulevard or terrace, public right-of-way, or public area or place, or upon any lot or parcel adjacent thereto and having branches which extend into or over such boulevard or terrace area, public right-of-way, or public area or place shall be kept trimmed so as to provide a clearance of not less than fourteen (14) feet over the boulevard or terrace area, public right-of-way, or public area or place.

(i) Public Areas or Places. Trees and shrubs standing in or upon any boulevard or terrace area, public right-of-way or public area or place and having branches which extend into or over such boulevard, public area or place, shall be kept trimmed by the Village. This provision shall not, however, apply to newly planted trees that do not interfere with persons or property or properly using any public street or place.

(ii) Private Premises. Trees and shurbs, the trunks or main stems of which are located adjacent to any boulevard or terrace area, public right-of-way, or public area or place and having branches which extend into or over such boulevard or terrace area, public right-of-way, public area or place, shall be trimmed by the property owner. Upon determination by the Village that such tree or shrub is in violation of this subsection, notice will be provided to the property owner. If the property owner does not comply with this subsection within ten (10) days from the date of the notice, the Village shall trim the tree or shrub accordingly.

Amended by Ord. No. 15-524 on 10/12/2015

(b) No hedge or shrub or plant shall be maintained between the curb and sidewalk, and all hedges, shrubs, and plants near street intersections which are within the sidewalk line shall be kept trimmed to a maximum height of three feet at all points within 15 feet of the intersection of the inside sidewalk lines as established from time to time by official sidewalk grade and location maps.

(c) Any tree, shrub, hedge or plant not located or maintained as required by this ordinance shall be and is hereby deemed to be a public hazard and nuisance and subject to the demand and removal provisions provided for nonliving shade trees in subsection (5).

Amended by Ord. No. 15-524 on 10/12/2015

(5) <u>Tree Maintenance</u>.

(a) Removal.

(i) Public Areas. All trees and shrubs standing in or upon any boulevard or terrace area, public right-of-way, public area or place shall be subject to treatment and/or removal by the Village when it is determined by the Village forester or his/her designee that such trees or shrubs are dead, dying, decayed, infected, or otherwise hazardous or dangerous to person or property, including sewers, curbs, sidewalks, and all other public improvements. The Village forester or his/her designee shall have the discretion to determine the most appropriate course of action.

(ii) Private Premises. Any tree, shrub, or part thereof wherever located in the Village on private property which the Village forester, upon examination, shall find to be dead, dying, decayed, infected, or otherwise hazardous or dangerous to person or property, including sewers, curbs, sidewalks, and all other public improvements, shall be removed by the property owner of the lot or parcel which it stands. If any such owner shall neglect to remove such tree or portion thereof, then the Board shall notice of hearing on the matter as is provided in the case of living shade trees under subsection (3), if the tree or portion thereof proposed to be removed is living, and if not living, the "Board", or Village forester, may demand the immediate removal thereof by said owner.

Amended by Ord. No. 15-524 on 10/12/2015

(b) After the hearing, or demand to remove as above provided, the "Board" may direct the Village forester to remove the tree or part thereof. The Village forester shall thereupon remove or cause to be removed such tree or part thereof, and he and any member of the "Board" or any third person employed to remove the tree or portion thereof, may enter onto the owner's property, if necessary, to accomplish such removal.

(c) No damages shall be paid to any owner for the destruction or removal (pursuant to this section) of any tree or part thereof or of any hedge, shrub, or plant.

(d) The Village will haul away and burn the wood of trees condemned by the Wisconsin Department of Agriculture after said trees are taken down at the expense of the property owner and blocked up to a suitable size for handling, and after a release has been signed by the property owner relieving the Village from all liability for damages.

(6) Special Assessments and Collection.

(a) The cost of abatement of a public nuisance or spraying for trees or shrubs located in or upon any boulevard, public right-of-way, public area or place shall be borne by the Village. The cost of abatement of a public nuisance or spraying for trees or shrubs located on private premises may be assessed to the property on which said nuisance is located. The Village Board shall hold a public hearing on any such proposed assessment and shall give advance notice thereof by publication in the official newspaper of the Village or by posting such notice in at least four conspicuous places.

(b) The "Board" shall keep a strict account of the cost of removing and caring for trees and shrubs and prior to the 15th day of October in each year shall make a report to the Village Board and Village Administrator of all work done by the "Board" and all costs related to removing and caring for trees and shrubs and assessments made. The Village Administrator, at the time of making his or her annual report to the Village Board, shall include therein the lots or parcels so reported by the "Board" with the amount assessed thereto for work done during the preceding year.

(c) The amounts reported to the Village Board by the Village Administrator shall be levied by the Board on said lots or parcels of land, respectively, to which they are

chargeable, and shall constitute a lien thereon and shall be collected as other special taxes are levied and collected in the Village. The "Board" may advance out of the park or other proper fund sufficient money for the doing of said work and the special assessments shall, in the event of such advance, be credited to the Poynette Park and Recreation Commission fund of said Village and shall not be diverted or used for any other purpose.

(d) Special assessments may also be levied pursuant to this section for the cost of trimming, removing trees, shrubs, hedges, or plants within any sidewalk line on any lot or parcel, if such tree, shrub, hedge or plant, or any part thereof, is found to be hazardous or dangerous under terms of this section, and the owner neglects to remove or trim the same as required pursuant to this section.

Amended by Ord. No. 15-524 on 10/12/2015

(7) Tree Planting Permit Required.

(a) Trees Authorized for Planting Between Curb and Sidewalk. No tree shall be planted in or upon any public street or place in the Village (other than by the "Board" or Village forester) unless a written tree planting permit is first obtained from the Village. The permit shall recite the name of the applicant, the location of the place on which the tree or trees are to be planted, and the kind of tree to be planted. The tree or trees for which a permit is issued shall be planted equidistant between the curb line and the outside line of the sidewalk, and shall be located not closer than 15 feet from the side boundary of the owner's property. In the vicinity of street intersections, trees planted pursuant to such permit shall be planted at least 15 feet from the intersection of the inside sidewalk lines.

(b) Permits may be issued for the following trees which are the only trees authorized to be planted between the curb and sidewalk at any place in the Village:

Sugar Maple	Schwedler Norway Maple	Red Ash
Hackberry	Scalon Red Maple	White Ash
Gingko	Red Oak	Sycamore
Scarlet Hawthorne		White Oak
Linden (American or Small Leaf)		

(8) Prohibited Trees. The planting or propagation of the following trees at any place in the Village is absolutely prohibited, and in making this prohibition the Village Board intends to and does hereby exercise its police power: Cottonwood, Box Elder, all varieties of Poplar, American Elm, and any other species of Elm not resistant to the Dutch Elm Disease.

(9) Interference With Enforcement of Ordinance. No person shall delay or interfere with the "Board" or Village forester or any third person following proper direction of the "Board" or Village forester in complying with or enforcing any provision of this section.

(10) Designation of Village Forester. The Village Forester shall be designated and appointed by the Village Board pursuant to § 27.09(1), Wis. Stats.

(11) Penalty. The penalty for violation of any provision of this section shall be a forfeiture of not less than $5.00 nor more than $25.00, together with the costs of prosecution. Each and every day during which such violation continues shall be deemed a separate offense.

3.08 **Weeds and Other Vegetation.**

(1) Definitions.

(a) "Destroy". The complete killing of weed plants above the surface of the ground by the use of chemicals or by cutting at such time and in such manner as will effectively prevent such plants from maturing to the bloom or flower stage.

(b) "Preservation or restoration area". Any lands managed to preserve or restore native Wisconsin grasses and forbs, native trees, shrubs, wildflowers and aquatic plants; an oldfield succession of native and non-native plants, or a combination of these. Includes formerly farmed areas left to grow wild: does not include farmland left temporarily fallow for agricultural reasons.

(c) "Turf Grass". Grass commonly used in regularly-cut lawns or play areas such as, but not limited to, bluegrass, fescue and ryegrass blends.

(2) No person shall permit turf grass areas to grow to a height exceeding 8 (eight) inches above soil level on land that (s)he owns, occupies, or controls.

(3) No person shall permit grass or weeds to grow to a height exceeding 12 (twelve) inches on land that (s)he owns, occupies, or controls.

(4) Every person shall destroy all noxious weeds on land that (s)he owns, occupies, or controls. The term "noxious weeds" as used herein includes Canada thistle, leafy spurge, field bindweed (Creeping Jenny), wild parsnip and any others that may, from time to time, be added to the noxious weed list in the Village's Standards and Practices manual.

(5) No person shall plant or cultivate the following nuisance plant species on land which (s)he owns, occupies, or controls: multiflora rose, burdock, garlic mustard, purple loosestrife, glossy or common buckthorn, box elder, black locust, and any others that may, from time to time, be added to the nuisance plant list in the Village's Standards and Practices manual.

(6) The Village Administrator, or his(her) designee, shall give a seven-day written notice to the owner, occupant, or person in control of any land containing weeds or grasses in excess of twelve (12) inches in height, or turf grass areas in excess of eight (8) inches

in height, or any noxious or intentionally planted nuisance plants, directing him(her) to forthwith comply with the provisions of this section.

(7) Exceptions to the requirements in 3.07(2) through 3.07(3), above, are specifically granted for the following:

(a) Any land owned or leased by the Wisconsin Department of Natural Resources or owned by the Village of Poynette that are preserved as natural areas by design.

(b) Any land on a natural floodplain adjacent to, or waterway flowing to Rowan or Hinkson Creeks that has been allowed to remain in its natural state to enhance the water quality of those bodies of water.

(c) Wooded areas or in tree lines where the distance between trees effectively prevents mowing of vegetation.

(d) Parcels two (2) or more acres in size and contiguous to other parcels maintained as preservation or restoration areas.

(e) For parcels over one (1) acre in size but less than two (2) acres in size that are contiguous to unplatted lands exceeding two acres in size and have been maintained as preservation or restoration areas. Areas beyond a yard maintained in turf grass surrounding the residence and extending to all abutting streets, providing that;

1. This yard shall, at minimum, extend out from the residence a distance equal to the required setback on each side of the house and to the full length or width of the lot measured along abutting street side(s) of the parcel. Setback distances referenced are those in Title III, Chapter 2 for side and rear yard setbacks for the zoning district of the parcel.

2. Areas beyond this yard which are not on those sides of the lot that are contiguous to unplatted lands exceeding two acres in size and maintained as preservation or restoration areas, must also comply with 3.07(2) and 3.07(3), above.

(f) Controlled plantings (beds) of:

1. Biennial or perennial native wildflowers and/or grasses intentionally planted in beds as a “prairie garden” or “rain garden;”

2. Ornamental grasses.

(g) On platted lands (subdivisions or developments) where covenants and restrictions specifically approved by the Plan Commission allow or require areas to remain in their natural or “rough” state.

(8) If any owner, occupant, or person in control of any such land fails, within seven days, to cut such vegetation, or to destroy such noxious or invasive weeds:

(a) The Village Administrator shall direct the Director of Public Works to have cut such vegetation or remove such noxious or invasive weeds, for purposes of which contractors or employees of the Village may enter onto the owner's property, as necessary, to accomplish such cutting or removing.

(b) The cost of such removal shall be the responsibility of the owner, and will be invoiced by the Village Clerk at a rate as specified on the Administrative Fees, Charges and Deposits Schedule in Title VI, Chapter 2 Administrative Fees, Charges and Deposits. If such fees are not paid within 60 days, the Village Clerk will place such fees on tax rolls for collection.

(c) That owner may be caused to forfeit $25.00 for each platted lot containing such weeds or grass or, if such land is unplatted, $50.00 for each acre or portion thereof. Each and every day during which such violation continues shall be deemed a separate offence. Notwithstanding any penalties herein provided, appropriate proceedings for abatement or abolition or for any other relief authorized y law may be commenced.

(9) The Village President shall annually on or before May 15 publish a Class 2 Notice that every person is required by law to destroy all noxious weeds and to cut all other weeds and grass exceeding 12 inches, or turf grasses exceeding 8 inches, in height on land which the person owns, occupies, or controls. Failure to publish said notice shall not be a defense to any prosecution for violation of the provisions of this section.

3.08 **Weeds and Other Vegetation**

(1) Definitions.

(a) "Destroy." The complete killing of weed plants above the surface of the ground by the use of chemicals or by cutting at such time and in such manner as will effectively prevent such plants from maturing to the bloom or flower stage.

(b) "Preservation or restoration area". Any lands managed to preserve or restore native Wisconsin grasses and forbs, native trees, shrubs, wildflowers and aquatic plants; an oldfield succession of native and non-native plants, or a combination of these. Includes formerly farmed areas left to grow wild: does not include farmland left temporarily fallow for agricultural reasons.

(c) "Turf Grass". Grass commonly used in regularly-cut lawns or play areas such as, but not limited to, bluegrass, fescue and ryegrass blends.

(2) No person shall permit turf grass areas to grow to a height exceeding 8 (eight) inches above soil level on land that (s)he owns, occupies, or controls.

(3) No person shall permit grass or weeds to grow to a height exceeding 12 (twelve) inches on land that (s)he owns, occupies, or controls.

(4) Every person shall destroy all noxious weeds on land that (s)he owns, occupies, or controls. The term “noxious weeds” as used herein includes Canada thistle, leafy spurge, field bindweed (Creeping Jenny), wild parsnip and any others that may, from time to time, be added to the noxious weed list in the Village’s Standards and Practices manual.

(5) No person shall plant or cultivate the following nuisance plant species on land which (s)he owns, occupies, or controls: multiflora rose, burdock, garlic mustard, purple loosestrife, glossy or common buckthorn, box elder, black locust, and any others that may, from time to time, be added to the nuisance plant list in the Village’s Standards and Practices manual.

(6) Exceptions to the requirements in 3.08(2) and 3.08(3), above, are specifically granted for the following:

(a) Any land owned or leased by the Wisconsin Department of Natural Resources or owned by the Village of Poynette that are preserved as natural areas by design.

(b) Any land on a natural floodplain adjacent to, or waterway flowing to Rowan or Hinkson Creeks that has been allowed to remain in its natural state to enhance the water quality of those bodies of water.

(c) Wooded areas or in tree lines where the distance between trees effectively prevents mowing of vegetation.

(d) Parcels two (2) or more acres in size and contiguous to other parcels maintained as preservation or restoration areas.

(e) For parcels over one (1) acre in size but less than two (2) acres in size that are contiguous to unplatted lands exceeding two acres in size and have been maintained as preservation or restoration areas. Areas beyond a yard maintained in turf grass surrounding the residence and extending to all abutting streets, providing that:

1. This yard shall, at minimum, extend out from the residence a distance equal to the required setback on each side of the house and to the full length or width of the lot measured along abutting street side(s) of the parcel. Setback distances referenced are those in Title III, Chapter 2 for side and rear yard setbacks for the zoning district of the parcel.

2. Areas beyond this yard which are not on those sides of the lot that are contiguous to unplatted lands exceeding two acres in size and maintained as preservation or restoration areas, must also comply with 3.07(2) and 3.07(3), above.

(a) Controlled plantings (beds) of:

1. Biennial or perennial native wildflowers and/or grasses intentionally planted in beds as a “prairie garden” or “rain garden;”

2. Ornamental grasses.

(b) On platted lands (subdivisions or developments) where covenants and restrictions specifically approved by the Plan Commission allow or require areas to remain in their natural or “rough” state.

(7) Regulation of Lawns and Grasses.

(a) Public Nuisance Declared. The Village finds that failure to comply with subsections (2), (3), (4) and (5) of this Section 3.08 can result in the emission of pollen and other plant parts that can cause discomfort, can constitute a fire hazard, can constitute a safety hazard when debris is hidden in grasses, weeds or plants, can interfere with public convenience, can adversely affect the value of other land, and can adversely affect the health and safety of the public. For these reasons, any lawns, grasses, weeds or plants that do not comply with of subsections (2), (3), (4) and (5) are hereby declared to be a public nuisance, except for lawns, grasses, or weeds exempted from such requirements as set forth in subsection (6).

(b) Nuisance Prohibited. No person may permit the public nuisance specified in subsection (7)(a) to exist on any land owned, occupied or controlled by that person.

(c) Inspection. The Village Administrator, or his(her) designee, is authorized to make one or more inspections of land to determine whether any public nuisance as specified in subsection (7)(a) exists. The Village Administrator, or his(her) designee is authorized to obtain a special inspection warrant pursuant to section 66.0119, Wis. Stats.

(d) Notice of Public Nuisance. If the Village Administrator, or his(her) designee, determines that a public nuisance specified in subsection (7)(a) exists, he or she shall cause a written notice to be delivered to any person in violation of subsection (7)(a). The notice may be delivered by regular mail or by personal service. The notice is effective upon mailing or personal service. A copy of this section shall be attached to the notice. The notice shall further state that:

1. The Village Administrator, or his(her) designee, has determined that a public nuisance as described in subsection (7)(a) exists on certain land.

2. The person or persons who own, occupy or control the land must abate the public nuisance within 7 (seven) days of the date the notice is mailed or personally served.

3. In the event the person or persons who own, occupy or control the land do not abate the public nuisance, the Village Administrator shall direct the Director of Public Works to abate the public nuisance and the cost of such abatement may be specially charged against the land as allowed by law.

(e) Hearing or Circuit Court Action. If a person who is given notice under subsection (7)(d) contends that the lawns, grasses, plants or weeds do not constitute a public nuisance in subsection (7)(a), that person may do one of the following:

1. Within 5 days of the effective date of the notice, request a hearing before the Village Board. If a hearing is requested, such hearing shall be held within 30 days from the date of the request. At the close of the hearing, the Village Board shall determine whether the Village Administrator's, or his(her) designee's notice was delivered to one of the persons who owns, occupies or controls the land, and whether a public nuisance specified in subsection (7)(a) exists. If the Village Board determines that the Village Administrator's, or his(her) designee's notice was delivered to one of the persons who owns, occupies or controls the land and that such a public nuisance does exist, the public nuisance must be abated by the person or persons who own, occupy or control the land within 5 days of the Village Board's determination. If the public nuisance is not abated within such 5-day period, the Village Administrator, or his(her) designee, may direct the Director of Public Works to cause the public nuisance to be abated, and all costs incurred to abate the public nuisance may be specially charged against the land as allowed by law; OR

2. Within 5 days of the effective date of the notice, provide notice to the Village Board of his/her intent to apply to the circuit court for an order declaring that that person is not in violation of the ordinance. Any such circuit court action must be commenced by the complainant within 30 days of notice to the Village Board or the right to such action under this ordinance will be deemed waived.

(f) Village's Option to Abate Nuisance. If no request for a hearing or notice of intent to apply to circuit court is provided within the time limitations set forth above, and the public nuisance is not abated within 7 days of the effective date of the notice, the Village Administrator, or his(her) designee may direct the Director of Public Works to cause the public nuisance to be abated, and all costs incurred to abate the public nuisance may be specially charged against the land as allowed by law.

(g) Forfeiture. In addition to and as an alternative to the abatement procedures described in this section, in the event a violation of this section is not corrected as required by this Section 3.08, each person in violation of this Section 3.08 shall forfeit not less than $25.00 nor more than $200.00 for each violation, plus costs, fees, penalties, assessments, surcharges and other charges that are or can be imposed by state law. Each day a violation occurs or exists after the effective date of the notice shall be considered a separate violation.

The Village President shall annually on or before May 15 publish a Class 2 Notice that every person is required by law to destroy all noxious weeds and to cut all other weeds and grass exceeding 12 inches, or turf grasses exceeding 8 inches, in height on land which the person owns, occupies, or controls. Failure to public said notice shall not be a defense to any prosecution for violation of the provisions of this section.

3.09 **Lawn, Garden and Tree Discharge.** No person, firm, association, or corporation shall deposit, place, discard, drop or in any other manner scatter grass clippings, leaves, branches or other lawn, garden, or tree waste in or upon the streets, curbs, sidewalks, or alleys of the Village of Poynette except as permitted under the following circumstances:

(1) The Village President shall annually on or before May 15 publish a Class 2 Notice indicating monthly pickup schedule. Containers should be set out at the appropriate street or alley line based on this public notice. Branches and tree limbs shall be placed together in bundles and place at the appropriate street or alley line for trash collection.

(2) Grass clippings, leaves and garden clippings shall be put in a separate plastic container (unbagged) no larger than 35 gallons or tied plastic/paper lawn trash containers.

(3) Nothing in this ordinance shall be construed as prohibiting the temporary scattering of grass clippings, leaves or the like on village streets, curbs, alleys, or sidewalks where the same occurs incidental to and during mowing, raking, or clipping operations; but the same shall thereafter be removed and corrected immediately at the conclusion of such operations.

(4) Any person violating any provision of this Section will be subject to a fine of $50.00 for the first offense and $100.00 for any subsequent offense.