

# CITY OF ONALASKA MEETING NOTICE

**COMMITTEE/BOARD:** Administrative & Judiciary Committee  
**DATE OF MEETING:** October 7, 2015 (Wednesday)  
**PLACE OF MEETING:** City Hall – 415 Main Street (Room 112)  
**TIME OF MEETING:** 6:00 P.M.

## **PURPOSE OF MEETING**

1. Call to Order and roll call.
2. Approval of minutes from the previous meeting.
3. Public Input: (limited to 3 minutes/individual)

### **Consideration and possible action on the following items:**

#### **Administrative**

4. Approval of Operator's Licenses as listed on report dated October 7, 2015
5. Liquor Licensing:
  - a. Approval of Class "B" Beer License for Apefish & Company LLC, 214 Main Street, Onalaska, WI
6. Request for burial of ashes:
  - a. Request from Pamela K. Wagner to allow her ashes in Block 164, Lot 5, Grave 2 with current ashes of son and husband.
  - b. Request from Philip and Joyce Sanders to allow one full burial and one cremains in Block 153, Lot 3, Grave 3
  - c. Request from Robert C. Riniker to allow burial of four sets of cremains for himself, Janet (wife), John (son) and Robert S. (son) in Block 150, Lot 6, Grave 2.
  - d. Request from Barbara Jaekel to allow the burial of cremains for Ronald Ammerman with his parents Robert and Shirley Ammerman in Block 157, Lot 8, Grave 2.
7. Approval of Change of Agent for:
  - a. Kwik Trip #767, 229 Oak Forest Drive, Onalaska to Karla M. Soland
8. Miscellaneous licensing reporting

PLEASE TAKE FURTHER NOTICE that members of the Common Council of the City of Onalaska who do not serve on the Board may attend this meeting to gather information about a subject over which they have decision making responsibility.

Therefore, further notice is hereby given that the above meeting may constitute a meeting of the Common Council and is hereby noticed as such, even though it is not contemplated that the Common Council will take any formal action at this meeting.

#### **NOTICES MAILED TO:**

Mayor Joe Chilsen  
\_\_\_\_\_  
\* Ald. Barry Blomquist - Chair Jud  
\_\_\_\_\_  
Ald. Jim Olson  
\_\_\_\_\_  
Ald. Bob Muth.  
\_\_\_\_\_  
Ald. Jim Bialecki  
\_\_\_\_\_  
\* Ald. Harvey Bertrand – Chair Admin & Vice Chair Jud  
\_\_\_\_\_  
\*Ald. Jim Binash - Vice Chair Admin  
\_\_\_\_\_  
City Attorney Dept Heads Charter Com. WXOW  
\_\_\_\_\_  
La Crosse Tribune Onalaska Holmen Courier Life  
\_\_\_\_\_  
WIZM WKTY WLXR WKBH WKBT WLSU

\_\_\_\_\_  
Pamela Wagner  
\_\_\_\_\_  
Philip and Joyce Sanders  
\_\_\_\_\_  
Apefish & Company LLC  
\_\_\_\_\_  
Robert Riniker  
\_\_\_\_\_  
Barbara Jaekel  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\*Committee Members

Date Notices Mailed and Posted: 10-1-15

In compliance with the Americans with Disabilities Act of 1990, the City of Onalaska will provide reasonable accommodations to qualified individuals with a disability to ensure equal access to public meetings provided notification is given to the City Clerk within seventy-two (72) hours prior to the public meeting and that the requested accommodation does not create an undue hardship for the City.

## **Judiciary**

1. **Ordinance No. 1509-2015** to amend Chapter 1 of Title 7 of the Code of Ordinances of the City of Onalaska relating to Licensing of Dogs and Cats Regulation of Animals (Third and Final Reading)
2. **Ordinance No. 1510-2015** to amend Section 8-4-3(c) of the Code of Ordinances of the City of Onalaska relating to Grave Opening Fees (First and Second Reading)
3. **Ordinance No. 1511-2015** to amend Chapter 1 of Title 9, Section 50 of the Code of Ordinances of the City of Onalaska relating to Private Wells (First and Second Reading)
4. **Ordinance No. 1512-2015** to amend Chapter 4 of Title 6, Section 50 of the Code of Ordinances of the City of Onalaska relating to Trees and Shrubs (First and Second Reading)

Adjournment

PACKET: 01321 License Packet Oct Operators

SEQUENCE: License #

ID	PERIOD	-----NAME-----		LICENSE CODE
01464	9/11/15- 6/30/17	OLSON	MELANEY	OPRATOR OPERATORS - 2 YEAR
01475	9/16/15- 6/30/17	LEE	MEGAN	OPRATOR OPERATORS - 2 YEAR
01476	9/16/15- 6/30/17	SEE	ALICIA	OPRATOR OPERATORS - 2 YEAR
01477	9/18/15- 6/30/17	SORENSEN	AMY	OPRATOR OPERATORS - 2 YEAR
01481	9/25/15- 6/30/16	MERTENS	CHAD	OPRATOR OPERATORS - 1 YEAR
01485	9/28/15- 6/30/17	BAIN	PATRICIA	OPRATOR OPERATORS - 2 YEAR
01486	9/28/15- 6/30/17	KILLIAN	PATRICK	OPRATOR OPERATORS - 2 YEAR
01487	9/29/15- 6/30/17	WARD	JOANN	OPRATOR OPERATORS - 2 YEAR
01489	9/29/15- 6/30/17	SEITHAMER	ANDREW	OPRATOR OPERATORS - 2 YEAR
01491	9/30/15- 6/30/16	SCHREINER	STEPHEN	OPRATOR OPERATORS - 1 YEAR
03080	9/11/15- 6/30/17	DUS	IRIS	OPRATOR OPERATORS - 2 YEAR
03814	9/10/15- 6/30/17	DELAIN	KAYLA	OPRATOR OPERATORS - 2 YEAR



8/28/2015

RECEIVED

AUG 31 2015

CITY OF ONALASKA

To Whom it may Concern.

I am writing to request an additional set of ashes to be buried at BLK. 164, Lot 5, graves. My husband and son are buried there, as they were cremated, and I'd like be buried there also when my time comes. I will also be cremated and would like my ashes with my husband. I hope you will consider my request. Thank you. Sincerely,  
Pamela K. Wagner

My contact information is:

Pamela K. Wagner  
6027 Thornburg Pl. SE  
Lacey, WA 98513

Home phone # 360-455-4360

Cell # 360-540-4249

P.S. We are from Onalaska, LaCrosse, Our relatives live there. This is where we grew up.

To: Men & Women of (City of Onalaska) Planning Committee

SEP 09 2015

Subject: Permission for the interment in the Onalaska cemetery of (one) rigid container (urn vault) with the cremated remains of Philip Sanders; and (one) (outer burial container with the casket inside) of my wife's remains, Joyce Sanders. These (two) containers to be placed in one burial plot. Reason for same being, cost and the better use of limited land resources.

RECEIVED

My wife and I have lived in Onalaska for the last twenty-five years. All four of our parents are buried here; and it would be easier for our daughter and grandchildren to care for the plot here. Philip is an honorably discharged veteran of the U.S. Marine Corps, who enlisted, after graduating from Onalaska High School in 1970. Both Joyce and Philip have worked in the Onalaska area for over forty years.

Respectfully awaiting your decision. Thank You, for your time!

Philip & Joyce Sanders  
822 Hope Ct.  
Onalaska, WI. 54650  
08 September 2015

BLOCK 153  
Lot 3  
Grave 3

*Philip Sanders*  
*Joyce E. Sanders*

720-352-6313

9/16/15

Administrative & Judiciary Committee

I am requesting your permission  
to bury <sup>four</sup> ~~set~~ cremated  
remains in one grave  
of <sup>four</sup> ~~one~~ <sup>sure</sup> ~~one~~

only wife and me  
and one son  
possibly daughter, son

Block 150  
Lot 6  
Grave 2

RECEIVED  
SEP 16 2015

CITY OF ONALASKA

Thank you  
Robert C. Riniker  
Robert C. RINIKER  
117 Granite Ln  
Onalaska



**DICKINSON**  
*Family Funeral Homes & Crematory*

September 16, 2015

Administrated & Judiciary Committee  
Attn: City Clerk  
415 Main Street  
Onalaska, WI. 54601

This letter is requesting burial of Ronald L. Ammerman cremains, who passed away September 12, 2015 on the burial plot of his parents, Robert J. and Shirley M. Ammerman.

Barbara Jaekel  
daughter of Robert & Shirley Ammerman  
sister of Ronald Ammerman

Block 157 Lot 8 Grave 2



1425 Jackson Street • 809 Gillette Street • La Crosse, Wisconsin 54601  
401 Main Street • Onalaska, Wisconsin 54650  
515 McHugh Road • Holmen, Wisconsin 54636

Telephone: 608•784•0135  
Fax: 608•784•0126

**SCHEDULE FOR APPOINTMENT OF AGENT BY CORPORATION/NONPROFIT ORGANIZATION OR LIMITED LIABILITY COMPANY**

Submit to municipal clerk.

All corporations/organizations or limited liability companies applying for a license to sell fermented malt beverages and/or intoxicating liquor must appoint an agent. The following questions must be answered by the agent. The appointment must be signed by the officer(s) of the corporation/organization or members/managers of a limited liability company and the recommendation made by the proper local official.

To the governing body of:  Town City of Onalaska County of La Crosse  
 Village of \_\_\_\_\_  
 City \_\_\_\_\_

The undersigned duly authorized officer(s)/members/managers of Kwik Trip, Inc.  
(registered name of corporation/organization or limited liability company)

a corporation/organization or limited liability company making application for an alcohol beverage license for a premises known as Kwik Trip 767  
(trade name)

located at 229 Oak Forest Dr., Onalaska, WI 54650

appoints Karla M. Soland  
(name of appointed agent)

W6755 Strawberry Rd., Onalaska, WI 54650  
(home address of appointed agent)

to act for the corporation/organization/limited liability company with full authority and control of the premises and of all business relative to alcohol beverages conducted therein. Is applicant agent presently acting in that capacity or requesting approval for any corporation/organization/limited liability company having or applying for a beer and/or liquor license for any other location in Wisconsin?

Yes  No If so, indicate the corporate name(s)/limited liability company(ies) and municipality(ies).  
Agent of Kwik Trip 826, La Crosse, WI, until new agent appointed.

Is applicant agent subject to completion of the responsible beverage server training course?  Yes  No Since May 2012  
 How long immediately prior to making this application has the applicant agent resided continuously in Wisconsin? \_\_\_\_\_

Place of residence last year W6755 Strawberry Rd., Onalaska, WI 54650

For: Kwik Trip, Inc.  
(name of corporation/organization/limited liability company)

By: [Signature]  
(signature of Officer/Member/Manager)

And: [Signature]  
(signature of Officer/Member/Manager)

**ACCEPTANCE BY AGENT**

I, Karla M. Soland, hereby accept this appointment as agent for the  
(print/type agent's name)

corporation/organization/limited liability company and assume full responsibility for the conduct of all business relative to alcohol beverages conducted on the premises for the corporation/organization/limited liability company.

[Signature] 9/23/15 Agent's age 60  
(signature of agent) (date)  
W6755 Strawberry Rd., Onalaska, WI 54650 Date of birth 10/19/54  
(home address of agent)

**APPROVAL OF AGENT BY MUNICIPAL AUTHORITY  
 (Clerk cannot sign on behalf of Municipal Official)**

I hereby certify that I have checked municipal and state criminal records. To the best of my knowledge, with the available information, the character, record and reputation are satisfactory and I have no objection to the agent appointed.

Approved on \_\_\_\_\_ by \_\_\_\_\_ Title \_\_\_\_\_  
(date) (signature of proper local official) (town chair, village president, police chief)

10/01/2015 9:20 AM

L I C E N S E M A S T E R R E P O R T

LICENSES: ALL

SORTED BY: LICENSE NUMBER

EFFECTIVE

LICENSE CODES: Include: RECBURN-O

EXPIRATIC

CLASSES: All

COMMENT:

STATUS: ACTIVE

PAY STATU

CITY LIMITS: INSIDE, OUTSIDE

ID	CODE	NAME/ PROPERTY ADDRESS	STATUS	CLASS/ REPORT	ORIG/ RENEW	TERM/ PRINTED
01463	RECBURN-O	WAGNER 114 9TH AVE S	ELIJAH ACTIVE	REC BURN REC BURN	9/09/2015	9/16/2015
01465	RECBURN-O	SANDERS 293 WALNUT DR	NEIL & ACTIVE	REC BURN REC BURN	9/11/2015	9/16/2015
01468	RECBURN-O	LUND 630 WESTWOOD DR	RONALD ACTIVE	REC BURN REC BURN	9/14/2015	10/01/2015
01469	RECBURN-O	REYNEN 604 RIDGEVIEW DR	MOLLY ACTIVE	REC BURN REC BURN	9/15/2015	9/17/2015
01471	RECBURN-O	LOWREY 1400 PINE ST	ROGER ACTIVE	REC BURN REC BURN	9/15/2015	9/17/2015
01478	RECBURN-O	CRAVE 2205 QUARRY LN	BRIDGE ACTIVE	REC BURN REC BURN	9/22/2015	10/01/2015

REPORT TOTALS: 6 LICENSES

ORDINANCE NO. 1509-2015

AN ORDINANCE TO AMEND CHAPTER 1 OF TITLE 7,  
OF THE CODE OF ORDINANCES OF THE CITY OF ONALASKA RELATING TO  
LICENSING OF DOGS AND CATS REGULATION OF ANIMALS

THE COMMON COUNCIL OF THE CITY OF ONALASKA DOES HEREBY ORDAIN AS  
FOLLOWS:

SECTION I. Title 7, Chapter 1, of the City of Onalaska Code of Ordinances related to  
Licensing of Dogs and Cats Regulation of Animals is hereby deleted in its entirety and replaced as  
follows:

**Sec. 7-1-1 Dog or Cat License Required; Definitions.**

- (a) **License Required.** It shall be unlawful for any person in the City of Onalaska to own, harbor or keep any dog or cat more than five (5) months of age without complying with the provisions of this Chapter relating to the listing, licensing and tagging of the same.
- (b) **Definitions.** In this Chapter, unless the context or subject matter otherwise require:
  - (1) "Animal Shelter" means any facility operated by a humane society, or municipal agency or its authorized agents
  - (2) "Owner" shall mean any person owning, harboring, fostering or keeping a dog or cat and the occupant of any premises on which a dog or cat remains or to which it customarily returns daily for a period of seven (7) days; such person is presumed to be harboring, fostering or keeping the dog or cat within the meaning of this Section.
  - (2) "At large" means to be off the premises of the owner and not under the control of some person either by leash, but a dog or cat within an automobile of its owner, or in an automobile of any other person with the consent of the owner of said dog or cat, shall be deemed to be upon the owner's premises.
  - (3) "Dog" shall mean any canine, regardless of age or sex.
  - (4) "Cat" shall mean any feline, regardless of age or sex.
  - (5) "Neutered" as used herein as describing a dog or cat shall mean a dog or cat having nonfunctional reproductive organs.
  - (6) "Animal" means mammals, reptiles and birds.
  - (7) "Cruel" means causing unnecessary and excessive pain or suffering or unjustifiable injury or death.
  - (8) "Law Enforcement Officer" has that meaning as appears in Sec. 967.02(5), Wis. Stats., and includes a humane officer under Sec. 58.07, Wis. Stats., but does not include a conservation warden appointed under Sec. 23.10, Wis. Stats.
  - (9) "Farm Animal" means any warm-blooded animal normally raised on farms in the United States and used for food or fiber.
  - (10) "Pet" means an animal kept and treated as a pet.

*State Law Reference:* Sections 174.05 through 174.10, Wis. Stats.

## Sec. 7-1-2 Rabies Vaccination Required for License.

- (a) **Rabies Vaccination.** The owner of a dog or cat shall have the dog or cat vaccinated against rabies by a veterinarian no later than 5 months of age and re-vaccinated within one (1) year after the initial vaccination. If the owner obtains such animal or brings such animal into the City of Onalaska after the dog or cat has reached four (4) months of age, the owner shall have such animal vaccinated against rabies within thirty (30) days after the dog or cat is brought into the City unless such animal has been vaccinated as evidenced by a current certificate of rabies vaccination. The owner of a dog or cat shall have such animal re-vaccinated against rabies by a veterinarian before the date of that immunization expires as stated on the certificate of vaccination or, if no date is specified, within two (2) years after the previous vaccination. The certificate of vaccination shall meet the requirements of Sec. 95.21(2), Wis. Stats.
- (b) **Issuance of Certificate of Rabies Vaccination.** A veterinarian who vaccinates a dog or cat against rabies shall complete and issue to the owner a certificate of rabies vaccination bearing a serial number and in the form approved by the City stating the owner's name and address, the name, sex, spayed or unspayed, neutered or unneutered, breed and color of the dog or cat, the date of the vaccination, the type of rabies vaccination administered and the manufacturer's serial number, the date that the immunization expires as specified for that type of vaccine by the Center for Disease Control of the U.S. Department of Health and Human Services and the City.
- (c) **Copies of Certificate.** The veterinarian shall keep a copy of each certificate of rabies vaccination in a file maintained for this purpose until the date that the immunization expires or until the dog or cat is revaccinated, whichever occurs first.
- (d) **Rabies Vaccination Tag.** After issuing the certificate of rabies vaccination, the veterinarian shall deliver to the owner a rabies vaccination tag of durable material bearing the same serial number as the certificate, the year the vaccination was given and the name, address and telephone number of the veterinarian.
- (e) **Tag to be Attached.** The owner shall attach the rabies vaccination tag or a substitute tag to a collar and a collar with the tag attached shall be kept on the dog or cat at all times, but this requirement does not apply to a dog or cat during competition. The substitute tag shall be of a durable material and contain the same information as the rabies vaccination tag. The requirements of this paragraph do not apply to a dog or cat which is not required to be vaccinated under Subsection (a).
- (f) **Duplicate Tag.** The veterinarian may furnish a new rabies vaccination tag with a new serial number to an owner in place of the original tag upon presentation of the certificate of rabies vaccination. The veterinarian shall then indicate the new tag number on the certificate and keep a record in the file.
- (g) **Cost.** The owner shall pay the cost of the rabies vaccination and the cost associated with the issuance of a certificate of rabies vaccination and the delivery of a rabies vaccination tag.

### **Sec. 7-1-3 Issuance of Dog, Cat, and Multiple Dog Licenses**

(a) **Dog/Cat Licenses.**

- (1) It shall be unlawful for any person in the City of Onalaska to own, harbor or keep any dog or cat more than five (5) months of age without complying with the provisions of Sec. 174.05 through Sec. 174.10, Wis. Stats., relating to the listing, licensing and tagging of the same.
- (2) The owner of any dog or cat more than five (5) months of age on January 1 of any year, or five (5) months of age within the license year, shall annually, or on or before the date the dog or cat becomes five (5) months of age, pay a license tax and obtain a license.
- (3) The minimum license tax under this Section for a spayed female or neutered dog shall be One Dollar (\$1.00) more than that charged by La Crosse County for the same license and shall be reflected on the City of Onalaska Fee Schedule. The minimum license tax under this Section for a spayed female or neutered cat shall be the same amount as for a dog. The minimum license tax under this Section for an unspayed female or unneutered dog shall be One Dollar (\$1.00) more than that charged by La Crosse County for the same license and shall be reflected on the City of Onalaska Fee Schedule. The minimum license tax under this Section for an unspayed female or unneutered cat shall be the same amount as for a dog.
- (4) Upon payment of the required license tax and upon presentation of evidence that the dog or cat is currently immunized against rabies, as required by Section 7-1-2 of this Chapter, the City Clerk shall complete and issue to the owner a license for such dog or cat containing all information required by state law. The City Clerk shall also deliver to the owner, at the time of issuance of the license, a tag of durable material bearing the same serial number as the license, the name of the county in which issued and the license year.
- (5) The owner shall securely attach the tag to a collar and the collar with the tag attached shall be kept on the dog or cat for which the license is issued at all times, except as provided in Section 7-1-2(e).
- (6) The fact that a dog or cat is without a tag attached to the dog or cat by means of a collar shall be presumptive evidence that the dog or cat is unlicensed. Any City police or humane officer shall seize, impound or restrain any dog or cat for which a dog license or cat license is required which is found without such tag attached.
- (7) Notwithstanding the foregoing, every dog specifically trained to lead blind or deaf persons is exempt from the dog license tax, and every person owning such a dog shall receive annually a free dog license from the City Clerk upon application therefore.

(b) **Multiple Dog Licenses**

- (1) Any person who keeps or possesses multiple dogs may, instead of the license tax for each dog required by this Chapter, apply for a multiple pet license for the keeping or possession of multiple dogs. Such person shall pay for the license year a license tax as set forth on the City of Onalaska Fee Schedule for four (4) or fewer dogs plus a City administrative fee as set forth on the City of Onalaska Fee Schedule.
- (2) The owner or keeper of a multiple pet license shall keep at all times a multiple dog license tag attached to the collar of each dog over five (5) months old kept by the

owner or keeper under a multiple dog license but this requirement does not apply to a show dog during competition. These tags may be transferred from one dog to another within the location that keeps or possesses multiple dogs whenever any dog is removed from said location. The rabies vaccination tag or substitute tag shall remain attached to the dog for which it is issued at all times but this requirement does not apply to a show dog during competition. No dog bearing a multiple dog tag shall be permitted to stray or to be taken anywhere outside the limits of the location in which said dog is kept or housed unless the dog is in leash or temporarily for the purposes of hunting, breeding, trial, training or competition.

*State Law Reference: Sec. 174.053, Wis. Stats.*

#### **Sec. 7-1-4 Late Fees.**

The City Clerk shall assess and collect a late fee as set forth on the City of Onalaska Fee Schedule from every owner of a dog or cat five (5) months of age or over if the owner failed to obtain a license prior to April 1 of each year, or within thirty (30) days of acquiring ownership of a licensable cat or if the owner failed to obtain a license on or before the cat reached licensable age. Said late fee shall be charged in addition to the required license fee.

#### **Sec. 7-1-5 Biting and Rabies Quarantine.**

- (a) **Dogs and Cats Confined.** If a district is quarantined for rabies, all dogs and cats within the City shall be kept securely confined, tied, leashed or muzzled. Any dog or cat not confined, tied, leashed or muzzled is declared a public nuisance and may be impounded. All officers shall cooperate in the enforcement of the quarantine. The City Clerk shall promptly post in at least three (3) public places in the City notices of quarantine.
- (b) **Exemption of Vaccinated Dog or Cat from City Quarantine.** A dog or cat which is immunized currently against rabies, as evidenced by a valid certificate of rabies vaccination or other evidence, is exempt from the City quarantine provisions of Subsection (a) if a rabies vaccination tag or substitute tag is attached to the dog's or cat's collar.
- (c) **Quarantine or Sacrifice of an Animal Suspected of Biting a Person or Being Infected or Exposed to Rabies.**
  - (1) **Quarantine or sacrifice of dog, cat or other animal.** The owner of any dog, cat or other animal which has bitten any other person, is infected with rabies or is suspected to have been in contact with a rabid animal shall, upon demand of a Humane Officer or Police Department, produce and surrender up such dog, cat or other animal to be held in quarantine for a minimum of ten days. If a quarantine cannot be imposed because the dog, cat or animal cannot be captured, the Humane Officer or Police Officer may kill the animal only as a last resort. The officer shall attempt to kill the animal in a humane manner and in a manner which avoids damage to the animal's head.
- (d) **Quarantine.**

- (1) **Delivery to Animal Shelter or quarantine on premises of owner.** An officer who orders a dog, cat or animal to be quarantined shall deliver the animal or shall order the animal delivered to an Animal Shelter or a veterinary hospital of the owner's choice as soon as possible but no later than twenty-four (24) hours after the original order is issued or the officer may order the animal to be quarantined on the premises of the owner if the animal is immunized currently against rabies as evidenced by a valid certificate of rabies vaccination or other evidence. Charges for boarding of such animal during the quarantine period shall be assumed by the owner of such animal. During quarantine, the animal shall be securely confined and kept from contact with any other animal.
- (2) **Risk to animal health.**
  - a. If a dog, cat or other animal is ordered by a Humane Officer, Police Department or County Health Department to be quarantined because there is reason to believe that the animal has been exposed to a rabid animal and if the dog, cat or animal is not currently immunized against rabies, the custodian of an Animal Shelter or the owner shall produce and surrender up such animal to the Department to be held in quarantine at a veterinary hospital for a period needed by the veterinarian to determine if it is rabid or not. The owner shall assume the charge for boarding such animal during the quarantine period. The owner shall be required to have the animal immunized against rabies prior to removing the animal from quarantine.
- (3) **Sacrifice of a dog or cat exhibiting symptoms of rabies.** If a licensed veterinarian diagnoses a dog, cat or animal in quarantine as having rabies during the original or extended observation period, the veterinarian shall notify the owner and the officer who ordered the animal quarantined and the animal shall be humanely euthanized and the head of such animal sent to the State Laboratory of Hygiene for pathological examination and confirmation of diagnosis. The State Laboratory of Hygiene shall examine the specimen and notify the City, veterinarian and local health department of their findings, and if the animal is suspected to have bitten a person, that person or the person's physician.
- (e) **Cooperation of Veterinarian.** Any practicing licensed veterinarian who is requested to be involved in the rabies control program by an officer is encouraged to cooperate in a professional capacity with the City, the Laboratory of Hygiene, Animal Shelter, the local health department, the officer involved and, if the animal is suspected to have bitten a person, the person's physician.
- (f) **Responsibility for Quarantine and Laboratory Expenses.** The owner of an animal is responsible for any expenses incurred in connection with keeping the animal in an Animal Shelter, supervision and examination of the animal by a veterinarian, preparation and transport for laboratory examination and the fee for the laboratory examination. If the owner is unknown, the county is responsible for preparation and testing/shipping fees and the City of Onalaska is responsible for quarantine costs.

#### **Sec. 7-1-6 Restrictions on Keeping of Dogs, Cats, Fowl and Other Animals.**

- (a) **Restrictions.** It shall be unlawful for any person within the City of Onalaska to own, harbor or keep any dog, cat or animal which:

- (1) Habitually pursues any vehicle upon any public street, alley or highway in the City.
  - (2) Assaults or attacks any person as described in Subsection (b) or destroys property.
  - (3) Is habitually at large within the limits of the City.
  - (4) Habitually barks or howls to the annoyance of any person or persons. (See Section 71-12.)
  - (5) Kills, wounds or bites any domestic animal.
  - (6) Is known by such person to be infected with rabies or to have been bitten by an animal known to have been infected with rabies.
  - (7) In the case of a cat or dog, is unlicensed.
- (b) **Vicious Dogs and Animals.**
- (1) For purposes of enforcing this Section, a dog shall be deemed as being of a vicious disposition if, within any twelve (12) month period it bites two (2) or more persons or inflicts serious injury to one (1) person in unprovoked circumstances.
  - (2) No person shall harbor or permit to remain on their premises any animal that is habitually inclined toward attacking persons or animals, destroying property, barking excessively or making excessive noises or running after automobiles.
- (c) **Animals Running at Large.**
- (1) No person having in their possession or ownership any animal or fowl shall allow the same to run at large within the City. The owner of any animal, whether licensed or unlicensed, shall keep its animal tied or enclosed in a proper enclosure so as not to allow said animal to interfere with the passing public or neighbors. Any animal running at large unlicensed and required by state law or City Ordinance to be licensed shall be seized and impounded by a humane or law enforcement officer. For the purposes of this section, the phrase "running at large" embraces all other places within the City except the owner's premises. This includes all streets, alleys, sidewalks or other public or private property which may be about the owner's premises.
  - (2) A dog or cat shall not be considered to be running at large if it is on a leash and under control of a person physically able to control it.
- (d) **Cat Control.**
- (1) It shall be unlawful for the owner or keeper of a cat to permit the same to run at large within the City. A cat is deemed to be at large when off the premises of its owner or keeper and not under their control by means of a leash, by being carried, or physically restrained. "Premises of the owner or keeper" is defined to be their dwelling house, garage and other buildings located on the land they have in their possession and the land itself. Premises also include any motor vehicle normally driven by the owner or keeper wherever located. For the purposes of this section, the phrase "running at large" embraces all other places within the City except the owner's premises. This includes all streets, alleys, sidewalks or other public or private property which may be about the owner's premises.
  - (2) It shall be the duty of every police or animal control officer to seize and impound any stray cat or cat running at large. Said officer shall immediately ascertain, if possible, the identity of the owner or keeper of each cat so seized by diligent inquiry.

- (3) If returned to the owner or keeper, said person shall pay to the City the veterinary fee, if any, and a forfeiture. Any cat not claimed within seven (7) days shall be disposed of in a proper and humane manner.
- (e) **Owner's Liability for Damage Caused by Dogs; Penalties.** The provisions of Sec. 174.02, Wis. Stats., relating to the owner's liability for damage caused by dogs together with the penalties therein set forth are hereby adopted and incorporated herein by reference.
- (f) **Transportation of Animals.** No person may keep or transport any animals in or upon any vehicle in a cruel manner. No person shall lead any animal upon any street or alley from a motor vehicle or from a trailer or semi-trailer drawn by a motor vehicle. No person may transport or leave unattended any animal in an open vehicle bed unless it is confined inside a carrier that is secured to the vehicle.

### **Sec. 7-1-7 Impoundment of Animals.**

- (a) **Animal Control Agency.**
  - (1) The City of Onalaska may contract with or enter into an agreement with such person, persons, organization or corporation to provide for the operation of an animal shelter, impoundment of stray animals, confinement of certain animals, disposition of impoundment animals and for assisting in the administration of rabies vaccination programs.
  - (2) The City of Onalaska does hereby delegate any such animal control agency the authority to act pursuant to the provisions of this.
- (b) **Impounding of Animals.** In addition to any penalty hereinafter provided for a violation of this Chapter, any Police or Humane Officer may impound any dog, cat or other animal which habitually pursues any vehicle upon any street, alley or highway of this City, assaults or attacks any person, is at large within the City, habitually barks, cries or howls, kills, wounds or worries any domestic animal or is infected with rabies.
- (c) **Claiming Animal; Disposal of Unclaimed Animals.** After seizure of animals under this Section by a law enforcement or humane officer, the animal shall be impounded at the Animal Shelter. If within seven (7) days the owner does not claim such animal, the Animal Shelter may dispose of the animal in a proper and humane manner; provided, if an animal before being impounded has bitten a person, the animal shall be retained in the designated Animal Shelter for ten (10) days for observation purposes. Within such times, the owner may reclaim the animal upon payment of impoundment fees, such fees to be established by resolution of the Common Council. No animal shall be released from the Animal Shelter without being properly licensed if so required by state law or City Ordinance. In any case where the owner of an animal is known and the owner does not claim such animal within seven (7) days as set forth above, the owner shall be assessed all costs for the impoundment and disposal of such animal. Any fees not paid within thirty days of invoice for impoundment or disposal shall be placed as a special charge on the property tax roll pursuant to Wis. Stats. §66.0207.
- (d) **City Not Liable for Impounding Animals.** The City and/or its animal control agency shall not be liable for the death of any animal which has been impounded or disposed of pursuant to this Section.

### **Sec. 7-1-8 Dogs and Cats Restricted on Cemeteries.**

No dog, cat or other pet shall be permitted in any public cemetery. Every dog specially trained to lead blind persons shall be exempt from this Section.

### **Sec. 7-1-9 Duty of Owner in Case of Dog or Cat Bite.**

- (a) **General Requirements.** Every owner or person harboring or keeping a dog or cat who knows that such dog or cat has bitten any person shall immediately report such fact to the Police Department and shall keep such dog or cat confined for not less than ten (10) days or for such period of time as the Police Department shall direct. The owner or keeper of any such dog or cat shall surrender the dog or cat to a law enforcement or humane officer upon demand for examination.
- (b) **Specific Responsibilities of a Pet Owner.**
- (1) **Animal Bites.** The owner of any dog, cat, ferret, or other animal which has bitten any person shall, upon demand of the Humane Officer or Health Department, produce and surrender up such dog, cat, ferret or other animal to such department to be held in quarantine subject to the requirements of Section 7-1-5 above.

### **Sec. 7-1-10 Animal Feces.**

The owner or person in charge of any dog or other animal shall not permit solid fecal matter of such animal to deposit on any street, alley or other public or private property, unless such matter is immediately removed therefrom by said owner or person in charge. This Section shall not apply to a person who is visually or physically handicapped.

### **Sec. 7-1-11 Injury to Property by Animals.**

It shall be unlawful for any person owning or possessing an animal, dog or cat to permit such animal, dog or cat to go upon any parkway or private lands or premises without the permission of the owner of such premises and break, bruise, tear up, crush or injure any lawn, flower bed, plant, shrub, tree or garden in any manner whatsoever, or to defecate or urinate thereon.

### **Sec. 7-1-12 Barking Dogs or Crying Cats.**

It shall be unlawful for any person knowingly to keep or harbor any dog which habitually barks, howls or yelps, or any cat which habitually cries or howls to the great discomfort of the peace and quiet of the neighborhood or in such manner as to materially disturb or annoy persons in the neighborhood who are of ordinary sensibilities. Such dogs and cats are hereby declared to be a public nuisance. A dog, animal or cat is considered to be in violation of this Section when two (2) formal, written complaints are filed with the Police Department within a four (4) week period.

## Sec. 7-1-13 Prohibited and Protected Animals, Fowl, Reptiles and Insects.

### (a) Protected Animals.

(1) **Possession and Sale of Protected Animals.** It shall be unlawful for any person, firm or corporation to possess with intent to sell or offer for sale, or buy or attempt to buy, within the City any of the following animals, alive or dead, or any part or product thereof: all wild cats of the family felidae, polar bear (*thalarctos maritimus*), red wolf (*canis niger*), vicuna (*vicugna vicugna*), or alligator, caiman or crocodile of the order of crocodilia, gray or timber wolf (*canis lupus*), sea otter (*enhydra lutris*), Pacific ridley turtle (*lepidochelys olivacea*), Atlantic green turtle (*chelonia mydas*), Mexican ridley turtle (*lepidochelys kempfi*).

(2) **Compliance with Federal Regulations.** It shall be unlawful for any person, firm or corporation to buy, sell or offer for sale a native or foreign species or subspecies of mammal, bird, amphibian or reptile, or the dead body or parts thereof, which appears on the endangered species list designated by the United States Secretary of the Interior and published in the Code of Federal Regulations pursuant to the Endangered Species Act of 1969 (Public Law 135, 91st Congress).

(3) **Regulating the Importation of Certain Birds.** No person, firm or corporation shall import or cause to be imported into this City any part of the plumage, skin or dead body of any species of hawk, owl or eagle. This paragraph shall not be construed to forbid or restrict the importation or use of the plumage, skin, body or any part thereof legally collected for use by the American Indians for ceremonial purposes or in the preservation of their tribal customs and heritage.

(b) **Exceptions.** The provisions of Subsection (a) above shall not be deemed to prevent the lawful importation, possession, purchase or sale of any species by any public agency, institute of higher learning, persons holding federal permits, or by a person holding a Scientific Collectors Permit issued by the Secretary of the Department of Natural Resources of the state, or to any person or organization licensed to present a circus.

(c) **Wild Animals; Prohibition on Keeping.** It shall be unlawful for any person to keep, maintain or have in their possession or under their control within the City any poisonous reptile or any other dangerous or carnivorous wild animal, insect or reptile, any vicious or dangerous domesticated animal or any other animal or reptile of wild, vicious or dangerous propensities. Specifically, it shall be unlawful for any person to keep, maintain or have in their possession or under their control a wild animal as defined under Wis. Stat. 169.01(37) to include any animal of a wild nature that is normally found in the wild and that is not a domestic animal.

(d) **Snakes.** Owners of snakes over 9 feet in length shall register the snake(s) with the City Clerk's office on a form provided by the City Clerk's office for information purposes. There shall be no fee to register a snake in the City of Onalaska. Snake registration must be updated each time the snake changes residence within the City of Onalaska or relocates outside of the City of Onalaska. Rock Pythons, Reticulated Pythons, Green Anacondas and Scrub Pythons are illegal and prohibited at any length.

- (e) **Domestic Animals in Agricultural Zones.** Except in properly zoned districts, horses, mules, ponies, donkeys, cows, pigs, goats, sheep, chickens or any animal raised for fur-bearing purposes shall not be permitted unless otherwise permitted elsewhere in this Code. If zoned agriculturally or if a nonconforming use permits the harboring of domestic animals such as cattle, horses, swine, sheep, goats, poultry or rabbits, it is required that no enclosure be within twenty-five (25) feet of any building used for residency purposes by anyone other than the home owner and be it further required that the enclosure not be within twenty-five (25) feet of where food is prepared, kept or sold.
- (f) **Exceptions.** The prohibitions of Subsection (c) and (d) above shall not apply where the creatures are in the care, custody or control of: a veterinarian for treatment; agricultural fairs; shows or projects of the 4-H Clubs; a display for judging purposes; an itinerant or transient carnival, circus or other show; dog or cat shows or trials; public or private educational institutions; zoological gardens; if:
  - (1) Their location conforms to the provisions of the zoning ordinance of the City.
  - (2) All animals and animal quarters are kept in a clean and sanitary condition and so maintained as to eliminate objectionable odors.
  - (3) Animals are maintained in quarters so constructed as to prevent their escape.
  - (4) No person lives or resides within one hundred (100) feet of the quarters in which the animals are kept.

#### **Sec. 7-1-14 Sale of Rabbits, Chicks or Artificially Colored Animals.**

- (a) No person may sell, offer for sale, raffle, give as a prize or premium, use as an advertising device or display living chicks, ducklings, other fowl or rabbits that have been dyed or otherwise colored artificially.
- (b)
  - (1) No person may sell, offer for sale, barter or give away living chicks, ducklings or other fowl without providing proper brooder facilities for the care of such chicks, ducklings or other fowl during the time they are in such person's care, custody or control.
  - (2) No retailer, as defined in Sec. 100.30(2)(g), Wis. Stats., may sell, offer for sale, barter or give away living baby rabbits, baby chicks, ducklings or other fowl under two (2) months of age, in any quantity less than six (6), unless the purpose of selling these animals is for agricultural, wildlife or scientific purposes.

*State Law Reference:* Sec. 951.10 and 951.11, Wis. Stats.

#### **Sec. 7-1-15 Providing Proper Food and Drink to Confined Animals.**

- (a) No person owning or responsible for confining or impounding any animal may refuse or neglect to supply the animal with a sufficient supply of food and water as prescribed in this Section.
- (b) The food shall be sufficient to maintain all animals in good health.
- (c) If potable water is not accessible to the animals at all times, it shall be provided daily and in sufficient quantity for the health of the animal.

*State Law Reference:* Sec. 951.13, Wis. Stats.

## Sec. 7-1-16 Providing Proper Shelter.

- (a) **Proper Shelter.** No person owning or responsible for confining or impounding any animal may fail to provide the animal with proper shelter as prescribed in this Section. In the case of farm animals, nothing in this Section shall be construed as imposing shelter requirements or standards more stringent than normally accepted husbandry practices in the particular county where the animal or shelter is located.
- (b) **Indoor Standards.** Minimum indoor standards of shelter shall include:
  - (1) **Ambient temperatures.** The ambient temperature shall be compatible with the health of the animal.
  - (2) **Ventilation.** Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animals at all times.
- (c) **Outdoor Standards.** Minimum outdoor standards of shelter shall include:
  - (1) **Shelter from Sunlight.** When sunlight is likely to cause heat exhaustion of an animal tied or caged outside, sufficient shade by natural or artificial means shall be provided to protect the animal from direct sunlight. As used in this paragraph caged does not include farm fencing used to confine animals.
  - (2) **Shelter from Inclement Weather.** Natural or artificial shelter appropriate to the local climatic conditions for the species concerned shall be provided as necessary for the health of the animal. If a dog is tied or confined unattended outdoors under weather conditions which adversely affect the health of the dog, a shelter of suitable size to accommodate the dog must be provided.
- (e) **Sanitation Standards.** No person owning, keeping, possessing or harboring an animal as a pet shall allow such animal to soil, defile, defecate on or commit any nuisance on any private or public property. The person responsible for such animal must immediately remove and dispose of all feces so deposited in a sanitary manner. Minimum standards of sanitation for both indoor and outdoor enclosures shall include periodic cleaning to remove excreta and other waster materials, dirt and trash so as to minimize health hazards.

*State Law Reference: Sec. 951.14, Wis. Stats.*

## Sec. 7-1-17 Neglected, Abandoned and Dead Animals.

- (a) **Neglected or Abandoned Animals.**
  - (1) No person may abandon any animal.
  - (2) Any law enforcement officer may remove, shelter and care for an animal found to be cruelly exposed to the weather, starved or denied adequate water, neglected, abandoned or otherwise treated in a cruel manner and may deliver such animal to another person to be sheltered, cared for and given medical attention, if necessary. In all cases the owner, if known, shall be immediately notified and such officer, or other person, having possession of the animal shall have a lien thereon for its care, keeping and medical attention and the expense of notice.

- (3) If the owner or custodian is unknown and cannot, with reasonable effort, be ascertained or does not, within seven (7) days after notice, redeem the animal by paying the expenses incurred, it may be treated as a stray and dealt with as such.
- (4) **Injured or dangerous animals.** A political subdivision or person contracting under Wis. Stats. 173.15(1) who has custody of an animal may have the animal humanely euthanized if there are reasonable grounds to believe that any of the following apply: the animal is hopelessly injured beyond any reasonable chance of recovery, the animal poses an imminent threat to public health or safety, or the animal poses an imminent threat to the health or safety of itself or its custodian.
- (b) **Injured Animals.** No person who owns, harbors or keeps any animal shall fail to provide proper medical attention to such animal when and if such animal becomes sick or injured. In the event the owner of such animal cannot be located, the City or any animal control agency with whom the City has an agreement or contract shall have the authority to take custody of such animal for the purpose of providing medical treatment, and the owner thereof shall reimburse the person or organization for the costs of such treatment. Any fees owed the city for providing medical treatment or the cost of care for the animal not paid within thirty days of invoice shall be placed as a special charge on the property tax roll pursuant to Wis. Stats. §66.0207. A person may also contact any animal control agency with whom the City has an agreement or contract and arrange for the pickup and disposal of any such injured animal or bird subject to a fee as set forth on the City of Onalaska fee schedule. Any fee not paid within thirty days of invoice for the pickup of such injured animals or birds shall be placed as a special charge on the property tax roll pursuant to Wis. Stats. §66.0207.
- (c) **Dead Animals.** Any person having charge or control of any dead domestic animal or bird of any size, or any wild, feral or confirmed stray animal or bird shall remove the same from the City within 12 hours after the time the person is or should be aware of the presence of such dead animal or bird. Any person who fails to remove or cause to be removed any dead animal or bird within 12 hours shall relinquish such rights to any such animal and the animal control officer which may order the animal or bird removed and a charge shall be placed on the property tax roll pursuant to Wis. Stats. §66.0207. Any person may contact the Public Works Department for removal of dead wild animals or birds. A person may also contact any animal control agency with whom the City has an agreement or contract and arrange for the pickup and disposal of any such dead animal or bird subject to a fee as set forth on the City of Onalaska fee schedule. Any fee not paid within thirty days of invoice for the removal of such dead animals or birds shall be placed as a special charge on the property tax roll pursuant to Wis. Stats. §66.0207.

*State Law Reference:* Sections 951.15, Wis. Stats.

### **Sec. 7-1-18 Cruelty to Animals and Birds Prohibited.**

- (a) **Acts of Cruelty Prohibited.** No person except a police officer or health or humane officer in the pursuit of their duties shall, within the City, shoot or kill or commit an act of cruelty to any animal or bird or disturb any bird's nests or bird's eggs.

- (b) **Leading Animal From Motor Vehicle.** No person shall lead any animal upon a City street from a motor vehicle or from a trailer or semi-trailer drawn by a motor vehicle.
- (c) **Use of Poisonous and Controlled Substances.** No person may expose any pet animal owned by another to any known poisonous substance or controlled substance listed in Sec. 161.14, Wis. Stats., whether mixed with meat or other food or not, where it is reasonable to anticipate the substance may be eaten by such animal or for the purpose of harming the animal. This Subsection shall not apply to poison used on one's own premises and designed for the purpose of rodent and pest extermination, nor the use of a controlled substance used in accepted veterinarian practice or in research by persons or organizations regularly engaged in such research.
- (d) **Use of Certain Devices Prohibited.** No person may directly or indirectly, or by aiding, abetting or permitting the doing thereof either put, place, fasten, use or fix upon or to any animal used or readied for use for a work purpose or for use in an exhibition, competition, rodeo, circus or other performance any of the following devices: a bristle bur, tack bur or like device; or a poling device used to train a horse to jump which is charged with electricity or to which have been affixed nails, tacks or other sharp points.
- (e) **Shooting at Caged or Staked Animals.** No person may instigate, promote, aid or abet as a principal, agent, employee, participant or spectator, or participate in the earnings from or intentionally maintain or allow any place to be used for the shooting, killing or wounding with a firearm or any deadly weapon any animal that is tied, staked out, caged or otherwise intentionally confined in a man-made enclosure, regardless of size.

#### **Sec. 7-1-19 Trapping of Animals.**

- (a) All traps set, placed or tended shall comply with Chapter 29, Wis. Stats., as they relate to trapping.
- (b) This Section shall not apply to trapping within the confines of buildings or homes.
- (c) Nothing in this Section shall prohibit or hinder the City of Onalaska or its employees or agents from performing their official duties.

#### **Sec. 7-1-20 Dognapping and Catnapping.**

No person may take the dog or cat of another from one place to another without the owner's consent or cause such a dog or cat to be confined or carried out of the City or held for any purpose without the owner's consent. This Section does not apply to law enforcement officers or humane society agents engaged in the exercise of their official duties, or as otherwise permitted herein.

#### **Sec. 7-1-21 Vehicle Accidents.**

The operator of any vehicle involved in an accident resulting in injury to or death of a dog, cat or other animal which appears to be a pet shall immediately notify the Police Department or an animal control agency whose jurisdiction extends into the City.

#### **Sec. 7-1-22 Keeping of Bees.**

- (a) It shall be unlawful for any person to establish or maintain any hive; stand or box where bees are kept or keep any bees in or upon any premises within the corporate limits of the City unless the bees are kept in accordance with the following provisions:
  - (1) No hive, stand or box where bees are kept shall be located closer than twenty (20) feet to any property boundary.
  - (2) If bee colonies are kept within fifty (50) feet of any exterior boundary of the property on which the hive, stand or box is located, a barrier that will prevent bees from flying through it, no less than five (5) feet high, shall be installed and maintained along said exterior boundary. Said barrier may be either a natural planting or artificial.
  - (3) Fresh, clean watering facilities for bees shall be provided on the said premises.
  - (4) The bees and equipment shall be kept in accordance with the provisions of the State Statutes.
  - (5) Bee hives may only be located in a rear yard.
  - (6) Bees may only be kept after a conditional use permit is first issued pursuant to the City Zoning Code.
- (b) Nothing in this Section shall be deemed or construed to prohibit the keeping of bees in a hive, stand or box located within a school or university building for the purpose of study or observation.

### **Sec. 7-1-23 Limitation on Number of Dogs and Cats.**

- (a) **Purpose.** The keeping of a large number of dogs and/or cats within the City for a considerable period of time detracts from and, in many instances, is detrimental to, healthful and comfortable life in such areas. The keeping of a large number of dogs and/or cats is, therefore, declared a public nuisance.
- (b) **Definitions.**
  - (1) **Dog.** A dog means any canine, regardless of age or sex.
  - (2) **Cat.** A cat means any feline, regardless of age or sex.
  - (3) **Residential Lot.** A residential lot means a parcel of land zoned as residential, occupied or to be occupied by a dwelling, platted or unplatted, and under common ownership. For the purpose of this Section, any vacant parcel or parcels adjoining a dwelling and under the same ownership shall constitute one (1) lot.
- (c) **Number Limited.** No family shall own, harbor, board, or keep in its possession more than four (4) dogs or four (4) cats, or a combined total of six (6) cats and dogs on any residentially zoned lot without the prior approval of the Common Council except that a litter of pups and/or kittens or a portion of a litter may be kept for not more than five (5) months from birth. If more than one (1) family resides on a residential lot, the number of cats/dogs shall not be increased from the number set forth in this Section unless the prior approval is obtained from the Common Council. For the purposes of this Section, the term "family" shall be defined as one (1) or more persons. Persons may keep more cats/dogs than the number permitted under this Section if they have first received a kennel license and a conditional use permit pursuant to City Zoning Code.

**Sec. 7-1-24 Penalties.**

- (a) Any person violating Sections 7-1-15, 7-1-16, 7-1-17, 7-1-18, 7-1-19, 7-1-20, 7-1-21, 7-1-22 or 7-1-23 shall be subject to a forfeiture of not less than Fifty Dollars (\$50.00) and not more than Two Hundred Dollars (\$250.00). This Section shall also permit the City Attorney to apply to the court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating any aspect of this Ordinance.
- (b)
  - (1) Anyone who violates Sections 7-1-1, 7-1-2, 7-1-3, 7-1-4 and 7-1-5 of this Code of Ordinances or Chapter 174, Wis. Stats., shall be subject to a forfeiture of not less than Twenty-five Dollars (\$25.00) and not more than Five Hundred Dollars (\$500.00).
  - (2) An owner who refuses to comply with an order issued under Section 7-1-5 to deliver an animal to an officer, animal shelter or veterinarian or who does not comply with the conditions of an order that an animal be quarantined shall be fined not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) or imprisoned not more than sixty (60) days or both.
- (c) Any person who violates Section 7-1-6 through 7-1-14 of this Code of Ordinances shall be subject to a forfeiture of not less than Twenty-five Dollars (\$25.00) and not more than Two Hundred Fifty Dollars (\$250.00) for the first violation and not less than Fifty Dollars (\$50.00) and not more than Five Hundred Dollars (\$500.00) for subsequent violations.

SECTION II. This Ordinance shall take effect and be in force from and after its passage and prior to publication although it will be published in due course.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

CITY OF ONALASKA

By: \_\_\_\_\_  
Joe Chilsen, Mayor

By: \_\_\_\_\_  
Caroline Burmaster, Clerk

PASSED:  
APPROVED:  
PUBLISHED:

Cari Burmaster, City Clerk

Cari Burmaster  
(signature)

No Fiscal Impact

Budgeted Item

Will need \$ \_\_\_\_\_ for \_\_\_\_\_ to meet the requirements of this ordinance.

ORDINANCE NO. 1510-2015

AN ORDINANCE TO AMEND SECTION 8-4-3(c) OF THE CODE OF ORDINANCES OF THE CITY OF ONALASKA RELATING TO GRAVE OPENING FEES

THE COMMON COUNCIL OF THE CITY OF ONALASKA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION I. Section 8-4-3(c) of the City of Onalaska Code of Ordinances is hereby deleted in its entirety and replaced with:

- (c) The following fees shall be charged for opening graves or vaults (including ashes buried in a vault):
- |    |  |           |
|----|--|-----------|
| 1. | Infants (Monday-Friday)                            | \$ 275.00 |
|    | Infants (Saturday)                                 | \$ 350.00 |
|    | Infants (Sunday & City Observed Holidays)          | \$ 400.00 |
| 2. | Non-infants (Monday-Friday)                        | \$ 675.00 |
|    | Non-infants (Saturday)                             | \$ 840.00 |
|    | Non-infants (Sunday & City Observed Holidays)      | \$ 950.00 |
| 3. | Ashes buried in urn only (infants and non-infants) |           |
|    | (Monday-Friday)                                    | \$ 325.00 |
|    | (Saturday)   | \$ 400.00 |
|    | (Sunday & City Observed Holidays)                  | \$ 450.00 |

All fees shall be paid at the office of the City Clerk no later than 5:00 P.M. two (2) business days prior to the day of the grave opening or the grave will not be opened.

SECTION II. This Ordinance shall take effect and be in force on January 1, 2016.

Dated this        day of        2015.

CITY OF ONALASKA, BY:

\_\_\_\_\_  
Joe Chilsen, Mayor

\_\_\_\_\_  
Caroline Burmaster, Clerk

PASSED:  
APPROVED:  
PUBLISHED:

Jarrold Holter, City Engineer

C. J. Holter 9-14-15  
(signature)

No Fiscal Impact

Budgeted Item

Will need \$ \_\_\_\_\_ for \_\_\_\_\_ to meet the requirements of this ordinance.

Fred Buehler, Financial Services Director

Fred Buehler 9-18-15  
(signature)

No Fiscal Impact

Budgeted Item

Will need \$ \_\_\_\_\_ for Increase Revenue 2016 to meet the requirements of this ordinance.

ORDINANCE NO. 1511-2015

AN ORDINANCE TO AMEND CHAPTER 1 OF TITLE 9,  
SECTION 50 OF THE CODE OF ORDINANCES OF THE CITY OF ONALASKA RELATING TO  
PRIVATE WELLS

THE COMMON COUNCIL OF THE CITY OF ONALASKA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION I. Title 9, Chapter 1, Section 50 of the City of Onalaska Code of Ordinances related to the Private Well Abandonment and Permits is hereby deleted in its entirety and replaced as follows:

**Sec. 9-1-50 Private Well Abandonment and Permits.**

- (a) **Purpose.** Residents of the City of Onalaska depend exclusively on groundwater for a safe drinking water supply. Certain land use practices and activities can seriously threaten or degrade groundwater quality. The purpose of this article is to institute regulations and restrictions to protect the city's municipal water supply and well fields and to promote the health, safety and general welfare of the residents of the City of Onalaska.
- (b) **Applicability and Authority.** These regulations are established pursuant to the authority granted by the state legislature in 1983, Wisconsin Act 410 (effective May 11, 1984) which specifically added groundwater protection to the statutory authorization for municipal planning and zoning in order to protect the public health, safety and welfare. This ordinance applies to all wells located within the City's corporate limits. Water Utility customers outside the jurisdiction of the municipal water system may be required under contract agreement or utility rules to adopt and enforce equivalent ordinances within their jurisdiction for purpose stated in Section 1 above.
- (c) **Definitions.**
  - (1) "Municipal Water System" means a community water system owned by a city, village, county, town, town sanitary district, utility district, public inland lake and rehabilitation district, municipal water district or a federal, state, county, or municipal owned institution for congregate care or correction, or a privately owned water utility serving the foregoing.
  - (2) "Non-complying" means a well or pump installation which does not comply with s. NR 812.42, Wisconsin Administrative Code, Standards for Existing Installations, and which has not been granted a variance pursuant to s. NR 812.43, Wisconsin Administrative Code.
  - (3) "Pump Installation" means the pump and related equipment used for withdrawing water from a well, including the discharge piping, the underground connections, pitless adapters, pressure tanks, pits, sampling faucets and well seals or caps.
  - (4) "Unsafe" well or pump installation means one which produces water which is bacteriologically contaminated or contaminated with substances which exceeds the drinking water standards of chs. NR 140 or 809, Wisconsin Administrative Code, or for which a Health Advisory has been issued by the Department of Natural Resources.
  - (5) "Unused" well or pump installation means one which is not used or does not have a functional pumping system.

- (6) "Well" means a drill hole or other excavation or opening deeper than it is wide that extends more than ten (10) feet below the ground surface constructed for the purpose of obtaining groundwater.
- (7) "Well Abandonment" means the proper filling and sealing of a well according to the provision of s. NR 812.26, Wisconsin Administrative Code.
- (d) **Use of Private Wells; Use of Water Supply.**
- (1) **Private Well Abandonment Generally.**
- a. All structure and buildings used, or intended to be used, for human habitation shall connect to the municipal water supply within one (1) year of the availability of said water. All private wells shall, within ninety (90) days after connection to the City water supply, be permanently abandoned pursuant to Section (6) below unless the owner or owners obtain a well operation permit from the City of Onalaska Water Utility.
  - b. In the event permission is granted to use a private well, it is expressly provided that the water therefrom shall be used on outside hose bibs only.
- (2) **Well Operation Permit.** A permit may be granted to operate a well if the following requirements are met, except as otherwise provided herein:
- a. The well and pump installation meet the requirements of Wis. Admin. Code ch. NR 812 and subsequent amendments, a well constructor's report is on file with the DNR, or certification of the acceptability of the well has been granted by the private water supply section of the DNR.
  - b. The well construction and pump installation have a history of producing safe water as evidenced by at least two samplings taken a minimum of two weeks apart. No exception to this condition may be made for unsafe wells unless the state department of natural resources approves in writing the continued use of the well.
  - c. The proposed use of the well can be justified as being necessary in addition to water provided by the public water system.
  - d. No physical connection shall exist between the piping of the public water system and the private well. The City may elect to do a cross connection inspection to verify compliance.
  - e. A permit fee shall have been paid once every five years in an amount determined annually by the City Council and set forth on the City Fee Schedule.
- (3) **Additional Conditions of Permit.** The right to construct, install and maintain a well as authorized by permit under this section shall be expressly conditioned upon the owners and successors in interest complying with the following:
- a. The owner shall permit the water utility or its designee access to the well for inspection and testing at anytime during working hours.
  - b. No repair or modification of any well may be performed unless prior notification is given to the water utility and the plan and resulting construction is reviewed and inspected by the City Engineer or its designee.
  - c. The City shall have the right to sample the water after completion of any such repairs or modification. Such sampling shall be at the owner's cost and may either be done by the City or by the owner at the City's direction.
  - d. The City shall have the right to randomly test or direct the owner to test the well not more than two times in any six month period. The City may

require additional testing if there is reason to believe some contamination may be present or that the results of previous tests may be invalid.

- e. The cost of any testing and sampling as provided in this section shall be paid by the owner upon invoice by the City.
- f. A permit issued in accordance with the provisions of this section shall be revoked by the City Engineer or its designee upon notice to the permittee that any of the following have occurred:
  - a. The owner of the well has refused access to a well for testing or has failed to follow a direction of order of municipal water utility in regard to testing or sampling.
  - b. The owner of any well has neglected to pay for any tests authorized with 30 days of billing invoice.
  - c. Any test results demonstrate well contamination and do not meet reasonable health standards or are in violation of any state or municipal ordinance dealing with well operation.
  - d. The parties aggrieved by permit revocation may appeal the initial decision of the water superintendant to the board of public works by filing a written for review with the City Clerk.

(4) **Application for Permit.** Applications for a well operation permit shall be made in writing by the owner or owners of the well to the City of Onalaska Water Utility. Application shall be upon a form provided by the Water Utility and shall be made concurrently with the application for a plumbing permit to connect the premises with municipal water. A fee as determined by the City of Onalaska Common Council and reflected on the City's Fee Schedule shall accompany the well operation permit application. Applications for a well operation permit must be approved by the City Engineer, upon approval by the City Engineer the application will be forwarded to the Board of Public Works and the Common Council for approval. Applications to drill a new well shall require a separate application for new well in addition to the well operation permit, the application to drill a new well shall be on a form provided by the City Engineer's office and shall require a needs assessment and any other information deemed necessary by the City Engineer and shall be reviewed in conjunction with the well operation permit. The application to drill a new well shall be accompanied with a \$5,000.00 permit fee.

(5) **Terms of Permit.** The well operation permit shall be valid for five (5) years from the date of issuance.

(6) **Renewal Permit.** Renewal permits shall be issued for the term and upon payment of the permit fee hereinabove mentioned. Renewal Well Operation Permits are subject to the same conditions as initial Well Operation Permits, as outlined in Section 3 above. The owner or owners shall certify when applying for a renewal permit that the well is in good operable condition and is in conformity with all applicable state and local laws and shall provide proof of safe water by providing at least one sample, having been taken within 2 weeks of the date of application. In the event the first sample fails, the owner can provide an additional two samples taken a minimum of two weeks apart to verify that the first sample was related to domestic hygiene issues and not well safety problems. No exception to this condition may be made for unsafe wells unless the state department of natural resources approves in writing the continued use of the well. In the event it is found, upon any inspection, that any cross connection has been made between the municipal water supply system and the piping of a private well water system, or that the well equipment is inoperable, or does not meet state or local regulations, all permits

shall be immediately suspended. In the case of a cross connection, the permit shall be revoked and the well ordered properly abandoned in accordance with applicable ordinances. In the event any inspection results in a suspension of a permit and a second inspection is made to determine if the reason for suspension has been eliminated, the owner shall bear the cost of any re-inspection fee as set forth on the Inspection Department's Fee Schedule.

- (7) **Well Abandonment.** Upon revocation of a well permit in accordance with this section or upon voluntary determination to abandon the use of any well previously permitted hereunder, all wells under the jurisdiction of this section shall be abandoned in accordance with the procedures of Wis. Admin. Code NR ch. 812. All debris, pump, piping, unsealed liners, and other obstructions which may interfere with the sealing operations shall be removed prior to abandonment. The owner of the well or the owner's agent shall notify the City Engineer or its designee at least 48 hours prior to commencement of any well abandonment activities. The abandonment of the well shall be observed by the water utility superintendent or its designee and an abandonment report form, supplied by the state department of natural resources, shall be submitted by the well owner to the water utility and the state department of natural resources within ten days of the completion of the well abandonment.
- (8) **Abandonment of Unused or Previously Abandoned Wells.** It shall be the responsibility of the landowner of any real property upon which a well is located to see to it that all wells located on the owner's property have been properly abandoned in accordance with the procedures of Wis. Admin. Code NR ch. 812, regardless of whether such owner has used such well. Upon discovery of any unused or previously abandoned well, the owner shall notify the municipal water utility and comply, insofar as is practicable, with the procedures of subsection (6) of this section. In the case of a previously abandoned well, if the owner can produce proof of compliance with state well abandonment requirements to the satisfaction of the utilities manager/engineer, compliance with this section may be deemed unnecessary. Such determination shall be at the discretion of the utilities manager/engineer upon considering the present and future possibility of ground water contamination at the well site.
- (9) **Failure to Properly Abandon Well Public Nuisance.** Failure to abandon any well after revocation of a permit to follow the provisions of Wis. Admin. Code NR ch.812, in abandoning such well is hereby deemed a public nuisance, and the City may cause such well to be property abandoned and may assess the cost against the owner of the affected property and collect it as a special tax.
- (e) **Penalties.** Any person, firm or other well owner violating any provision of this Section shall, upon conviction, be punished by a forfeiture of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), together with the cost of prosecution. Each twenty-four (24) hour period during which a violation exists shall be deemed and constitute a separate offense.

SECTION II. This Ordinance shall take effect and be in force from and after its passage and prior to publication although it will be published in due course.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

CITY OF ONALASKA

By: \_\_\_\_\_  
Joe Chilsen, Mayor

By: \_\_\_\_\_  
Caroline Burmaster, Clerk

PASSED:  
APPROVED:  
PUBLISHED:

FISCAL IMPACT OF ORDINANCE 1511 – 2015

Please route in this order

Brea Grace, Land Use & Development Director  
(let Joe Barstow review all annexation ordinances)

Brea Grace 9/16/15  
(signature)

No Fiscal Impact

Budgeted Item

Will need \$ \_\_\_\_\_ for \_\_\_\_\_ to meet the requirements of this ordinance.

Jarrod Holter, City Engineer

C. J. Holter 9-16-15  
(signature)

No Fiscal Impact

Budgeted Item

Will need \$ \_\_\_\_\_ for \_\_\_\_\_ to meet the requirements of this ordinance.

Fred Buehler, Financial Services Director

Fred Buehler 9-18-15  
(signature)

No Fiscal Impact

Budgeted Item

Will need \$ \_\_\_\_\_ for \_\_\_\_\_ to meet the requirements of this ordinance.

ORDINANCE NO. -2015

AN ORDINANCE TO AMEND CHAPTER 1 OF TITLE 9,  
SECTION 50 OF THE CODE OF ORDINANCES OF THE CITY OF ONALASKA  
RELATING TO PRIVATE WELLS

THE COMMON COUNCIL OF THE CITY OF ONALASKA DOES HEREBY ORDAIN AS  
FOLLOWS:

SECTION 1. Title 9, Chapter 1, Section 50 of the City of Onalaska Code of  
Ordinances related to the Private Well Abandonment and Permits is hereby deleted in its  
entirety and replaced as follows:

**Sec. 9-1-50 Private Well Abandonment and Permits.**

- (a) **Purpose.** Residents of the City of Onalaska depend exclusively on groundwater for a safe drinking water supply. Certain land use practices and activities can seriously threaten or degrade groundwater quality. The purpose of this article is to institute regulations and restrictions to protect the city's municipal water supply and well fields and to promote the health, safety and general welfare of the residents of the City of Onalaska. To protect public health, safety and welfare and to prevent contamination of groundwater by assuring that unused, unsafe or non-complying wells or wells which may act as conduits for contamination of groundwater or wells which may be illegally cross-connected to the municipal water system, are properly maintained or abandoned.
- (b) **Applicability and Authority.** These regulations are established pursuant to the authority granted by the state legislature in 1983, Wisconsin Act 410 (effective May 11, 1984) which specifically added groundwater protection to the statutory authorization for municipal planning and zoning in order to protect the public health, safety and welfare. This ordinance applies to all wells located within the City's corporate limits on premises served by the municipal water system. Water Utility customers outside the jurisdiction of the municipal water system may be required under contract agreement or utility rules to adopt and enforce equivalent ordinances within their jurisdiction for purpose stated in Section 1 above.
- (c) **Definitions.**
- (1) "Municipal Water System" means a community water system owned by a city, village, county, town, town sanitary district, utility district, public inland lake and rehabilitation district, municipal water district or a federal,

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state, county, or municipal owned institution for congregate care or correction, or a privately owned water utility serving the foregoing.

- (2) "Non-complying" means a well or pump installation which does not comply with s. NR 812.42, Wisconsin Administrative Code, Standards for Existing Installations, and which has not been granted a variance pursuant to s. NR 812.43, Wisconsin Administrative Code.
- (3) "Pump Installation" means the pump and related equipment used for withdrawing water from a well, including the discharge piping, the underground connections, pitless adapters, pressure tanks, pits, sampling faucets and well seals or caps.
- (4) "Unsafe" well or pump installation means one which produces water which is bacteriologically contaminated or contaminated with substances which exceeds the drinking water standards of chs. NR 140 or 809, Wisconsin Administrative Code, or for which a Health Advisory has been issued by the Department of Natural Resources.
- (5) "Unused" well or pump installation means one which is not used or does not have a functional pumping system.
- (6) "Well" means a drill hole or other excavation or opening deeper than it is wide that extends more than ten (10) feet below the ground surface constructed for the purpose of obtaining groundwater.
- (7) "Well Abandonment" means the proper filling and sealing of a well according to the provision of s. NR 812.26, Wisconsin Administrative Code.

(d) **Use of Private Wells; Use of Water Supply.**

(1) **Private Well Abandonment Generally.**

- a. All structure and buildings used, or intended to be used, for human habitation shall connect to the municipal water supply within one (1) year of the availability of said water. All private wells shall, within ninety (90) days after connection to the City water supply, be permanently abandoned pursuant to Section (6) below unless the owner or owners obtain a well operation permit from the City of Onalaska Water Utility.
- b. In the event permission is granted to use a private well, it is expressly provided that the water therefrom shall be used on outside hose bibs only.

(2) Well Operation Permit. A permit may be granted to operate a well if the following requirements are met, except as otherwise provided herein:

- a. The well and pump installation meet the requirements of Wis. Admin. Code ch. NR 812 and subsequent amendments, a well constructor's report is on file with the DNR, or certification of the acceptability of the well has been granted by the private water supply section of the DNR.

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- b. The well construction and pump installation have a history of producing safe water as evidenced by at least two samplings taken a minimum of two weeks apart. No exception to this condition may be made for unsafe wells unless the state department of natural resources approves in writing the continued use of the well.
- c. The proposed use of the well can be justified as being necessary in addition to water provided by the public water system.
- d. No physical connection shall exist between the piping of the public water system and the private well. The City may elect to do a cross connection inspection to verify compliance.
- e. A permit fee shall have been paid once every five years in an amount determined annually by the City Council and set forth on the City Fee Schedule.

(3) Additional Conditions of Permit. The right to construct, install and maintain a well as authorized by permit under this section shall be expressly conditioned upon the owners and successors in interest complying with the following:

- a. The owner shall permit the water utility or its designee access to the well for inspection and testing at anytime during working hours.
- b. No repair or modification of any well may be performed unless prior notification is given to the water utility and the plan and resulting construction is reviewed and inspected by the City Engineer or its designee.
- c. The City shall have the right to sample the water after completion of any such repairs or modification. Such sampling shall be at the owner's cost and may either be done by the City or by the owner at the City's direction.
- d. The City shall have the right to randomly test or direct the owner to test the well not more than two times in any six month period. The City may require additional testing if there is reason to believe some contamination may be present or that the results of previous tests may be invalid.
- e. The cost of any testing and sampling as provided in this section shall be paid by the owner upon invoice by the City.
- f. A permit issued in accordance with the provisions of this section shall be revoked by the City Engineer or its designee upon notice to the permittee that any of the following have occurred:
  - a. The owner of the well has refused access to a well for testing or has failed to follow a direction of order of

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municipal water utility in regard to testing or sampling.

- b. The owner of any well has neglected to pay for any tests authorized with 30 days of billing invoice.
- c. Any test results demonstrate well contamination and do not meet reasonable health standards or are in violation of any state or municipal ordinance dealing with well operation.
- d. The parties aggrieved by permit revocation may appeal the initial decision of the water superintendant to the board of public works by filing a written for review with the City Clerk.

~~(2)~~(4) Application for Permit. Applications for a well operation permit shall be made in writing by the owner or owners of the well to the City of Onalaska Water Utility. Application shall be upon a form provided by the Water Utility and shall be made concurrently with the application for a plumbing permit to connect the premises with municipal water. A fee as determined by the City of Onalaska Common Council and reflected on the City's Fee Schedule ~~of Twenty Five Dollars (\$25.00)~~ shall accompany the well operation permit application. Applications for a well operation permit must be approved by the City Engineer, upon approval by the City Engineer the application will be forwarded to the Board of Public Works and the Common Council for approval. Applications to drill a new well shall require a separate application for new well in addition to the well operation permit, the application to drill a new well shall be on a form provided by the City Engineer's office and shall require a needs assessment and any other information deemed necessary by the City Engineer and shall be reviewed in conjunction with the well operation permit. The application to drill a new well shall be accompanied with a \$5,000.00 permit fee.

~~(3)~~ Issuance of Permits. ~~Bacteriological sampling, consisting of obtaining one (1) shall be conducted prior to issuing or reissuing the permit. Private wells with unsafe bacteria samples shall not be issued a well permit and the well shall be abandoned; there shall be no exceptions to this condition.~~

~~(4)~~(5) Terms of Permit. The well operation permit shall be valid for five (5) years from the date of issuance. ~~The City shall not permit new wells to be drilled under such permit, unless specifically authorized by the Common Council.~~

~~(5)~~(6) Renewal Permit; Suspension and Revocation. Renewal permits shall be issued for the term and upon payment of the permit fee hereinabove mentioned. Renewal Well Operation Permits are subject to the same conditions as initial Well Operation Permits, as outlined in Section 3 above. The owner or owners shall certify when applying for a renewal permits that the well is in good operable condition and is in conformity with all applicable state and local laws and shall provide proof of safe water by

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Comment [a1]: I would recommend starting the fee at \$250.00.

providing at least one sample, having been taken within 2 weeks of the date of application. In the event the first sample fails, the owner can provide an additional two samples –taken a minimum of two weeks apart to verify that the first sample was related to domestic hygiene issues and not well safety problems. No exception to this condition may be made for unsafe wells unless the state department of natural resources approves in writing the continued use of the well. In the event it is found, upon any inspection, that any cross connection has been made between the municipal water supply system and the piping of a private well water system, or that the well equipment is inoperable, or does not meet state or local regulations, and all permits shall be immediately suspended. In the case of a cross connection, the permit shall be revoked and the well ordered properly abandoned in accordance with applicable ordinances. In the event any inspection results in a suspension of a permit and a second inspection is made to determine if the reason for suspension has been eliminated, a Fifteen Dollar (\$15.00)the owner shall bear the cost of any re-inspection fee shall be charged as set forth on the Inspection Department’s Fee Schedule.

(7) Well Abandonment. Upon revocation of a well permit in accordance with this section or upon voluntary determination to abandon the use of any well previously permitted hereunder, all wells under the jurisdiction of this section shall be abandoned in accordance with the procedures of Wis. Admin. Code NR ch. 812. All debris, pump, piping, unsealed liners, and other obstructions which may interfere with the sealing operations shall be removed prior to abandonment. The owner of the well or the owner’s agent shall notify the City Engineer or its designee at least 48 hours prior to commencement of any well abandonment activities. The abandonment of the well shall be observed by the water utility superintendent or its designee and an abandonment report form, supplied by the state department of natural resources, shall be submitted by the well owner to the water utility and the state department of natural resources within ten days of the completion of the well abandonment.

(8) Abandonment of Unused or Previously Abandoned Wells. It shall be the responsibility of the landowner of any real property upon which a well is located to see to it that all wells located on the owner’s property have been properly abandoned in accordance with the procedures of Wis. Admin. Code NR ch. 812, regardless of whether such owner has used such well. Upon discovery of any unused or previously abandoned well, the owner shall notify the municipal water utility and comply, insofar as is practicable, with the procedures of subsection (6) of this section. In the case of a previously abandoned well, if the owner can produce proof of compliance with state well abandonment requirements to the satisfaction of the utilities manager/engineer, compliance with this section may be deemed unnecessary. Such

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determination shall be at the discretion of the utilities manager/engineer upon considering the present and future possibility of ground water contamination at the well site,

(9) Failure to Properly Abandon Well Public Nuisance. Failure to abandon any well after revocation of a permit to follow the provisions of Wis. Admin. Code NR ch.812, in abandoning such well is hereby deemed a public nuisance, and the City may cause such well to be property abandoned and may assess the cost against the owner of the affected property and collect it as a special tax,

- (e) **Penalties.** Any person, firm or other well owner violating any provision of this Section shall, upon conviction, be punished by a forfeiture of not less than One Hundred Dollars (\$100.00) nor more than ~~Two~~ Five Hundred Dollars (\$500.00), together with the cost of prosecution. Each twenty-four (24) hour period during which a violation exists shall be deemed and constitute a separate offense.

SECTION II. This Ordinance shall take effect and be in force from and after its passage and prior to publication although it will be published in due course.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2015.

CITY OF ONALASKA

By:

\_\_\_\_\_  
Joe Chilsen, Mayor

By:

\_\_\_\_\_  
Caroline Burmaster, Clerk

PASSED:  
APPROVED:  
PUBLISHED:

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**ORDINANCE NO. 1512-2015**

**AN ORDINANCE TO AMEND CHAPTER 4 OF TITLE 6,  
SECTION 50 OF THE CODE OF ORDINANCES OF THE CITY OF ONALASKA  
RELATING TO TREES AND SHRUBS**

THE COMMON COUNCIL OF THE CITY OF ONALASKA DOES HEREBY ORDAIN AS  
FOLLOWS:

SECTION I. Title 6, Chapter 4 of the City of Onalaska Code of Ordinances related to the  
Trees and Shrubs is hereby deleted in its entirety and replaced as follows:

## **Chapter 4**

### **Trees and Shrubs**

- 6-4-1** Statement of Policy and Applicability of Chapter
- 6-4-2** Definitions
- 6-4-3** Staff Forester
- 6-4-4** Interference with Staff Forester Prohibited
- 6-4-5** Abatement of Public Nuisances, Dangerous, Obstructive, and Infective Trees
- 6-4-6** Assessment of Costs of Abatement
- 6-4-7** Maintenance and Removal of Trees and Shrubs in Public Ways or Public Properties/Areas
- 6-4-8** Planting of Trees and Shrubs
- 6-4-9** Trimming
- 6-4-10** Trees and Shrubbery Obstructing View at Intersections or View of Traffic Signs
- 6-4-11** Prohibited Acts
- 6-4-12** Appeal from Determinations and Orders
- 6-4-13** Adoption of State Statutes
- 6-5-14** Violations
- 6-5-15** Emergencies
- 6-5-16** Severability
- 6-5-17** Arboricultural Standards

### **Sec. 6-4-1 Statement of Policy and Applicability of Chapter.**

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

### **Sec. 6-4-2 Definitions.**

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

- (a) **Boulevard or Terrace Areas.** The land between the typical location of the street edge or curbing and the street right-of-way. Where there is no curb and gutter, the edge of the road way (pavement or gravel) to the right-of-way line shall be deemed to be a boulevard for the purpose of this Chapter. "Boulevard" shall have the same meaning as "terrace". Where there are no sidewalks, the area from the curbing or edge of street to the right-of-way line shall be deemed boulevard areas under this Chapter.
- (b) **Critical Root Radius (CRR).** 1.5 feet for every diameter inch at diameter at breast height (DBH), as relating to excavations near trees.
- (c) **Evergreen Tree.** Any woody plant normally having one stem or trunk and bearing foliage in the form of needles and crowns which extend from ground level throughout its entire height.
- (d) **Frames.** A device used to stabilize or provide protection to a tree. May include staking materials, blocks, or other landscaping materials around the base of a tree.
- (e) **Major Alteration.** Trimming a tree beyond one-third (1/3) of the crown.
- (f) **Person.** Person, firm, business, association, corporation or other legal entity.
- (g) **Public Nuisance.** Any deleterious or fatal tree disease. Any tree or shrub or part thereof which, by reason of its condition and location, is hazardous and/or interferes with the use of any public property/area or public ways; infected with a plant disease; infested with injurious insects or pests; injurious to public improvements or endangers the life, health, safety or welfare of persons or property.
- (h) **Public Properties/Areas.** Land owned or controlled by the City, including without limitation because of enumeration, public sites, parks, playgrounds, recreation areas, park ways, common open spaces, greenways, forests, conservancies and other lands owned or leased by the City under the authority of the Parks and Recreation Board.
- (i) **Public Trees and Shrubs.** All trees and shrubs located or to be planted in or upon public areas.
- (j) **Public Ways.** All public streets, roads, right-of-ways, boulevards, terraces strips between public lot lines and curbs, alleys, sidewalks, cemeteries, and other lands owned or leased by the City and under the authority of the Board of Public Works.

- (k) **Shrubs.** Any woody vegetation or a woody plant having multiple stems and bearing foliage from the ground up.
- (l) **Staff Forester.** Person designated by the Parks and Recreation Board and the Board of Public Works as authorized to carry out provisions of this Chapter
- (m) **Top, Topping.** The severe cutting back of limbs to stubs within the tree crown to such a degree so as to remove normal canopy and disfigure the tree.
- (n) **Tree.** Any woody plant, normally having one stem or trunk bearing its foliage or crown well above ground level to heights of sixteen feet or more.
- (o) **Urban Forest.** The collection of trees in and around the City, including park and street trees on public property and on private property.

**Sec. 6-4-3 Staff Forester.**

- (a) **Parks and Recreation Board Appointment.** The Parks and Recreation Board may designate a municipal employee(s) to perform the duties of Staff Forester under Chapter 27.09, Wis. Stats., and may authorize such Staff Forester to perform the duties and exercise the powers imposed by this Chapter. The Staff Forester shall have the following general powers and duties:
  - (1) To direct, manage, supervise, and control the planting, removal, maintenance, protection of all trees and shrubs on all public properties, areas and ways; to supervise Park Department personnel in the planting, removal, maintenance, and protection of said trees and shrubs.
  - (2) To guard all trees and shrubs within the City located on public areas so as to prevent the spread of disease or pests and to eliminate dangerous conditions which may affect the life, health or safety of persons or property.
  - (3) To enforce this ordinance as it pertains to trees and shrubs on private premises.
  - (4) Such other powers and duties as are provided by the laws of Wisconsin, particularly Sections 27.08 and 27.09, Wis. Stats., by ordinance of the City and by the Parks and Recreation Board.
- (b) **Right-of-Entry.** The Staff Forester or other authorized City representatives may make a request to enter upon private premises at all reasonable times for the purpose of examining any tree or shrub located upon or over such premises and carrying out any of the provisions of this Chapter. If a request to inspect such trees or shrubs is denied by the person responsible for the property, an inspection warrant may be obtained pursuant to Sec. 66.0119, Wis. Stats.
- (c) **Inspection.** The Staff Forester may inspect or cause to be inspected all premises and places within the City to determine whether any public nuisance exists thereon. The Staff Forester may also inspect or cause the inspection of any tree reported to be public nuisance or suspected to be infested with a deleterious or fatal tree disease or any part of a tree bearing materials reported or suspected to be infested.
- (d) **Maintenance/Removal.** Staff Forester or other authorized agent may trim, prune, or remove a tree or shrub located on or hanging into public properties/areas and public ways as necessary as determined by the Staff Forester, due to disease, damage, hazardous condition and/or location, public nuisance, or if it's location is such that substantial detriment is done to the property upon which the tree or shrub stands, or property abutting the same. Staff Forester shall cause maintenance and/or removal of a tree or shrub on private premise (as Per Section 6-4-5).

#### **Sec. 6-4-4 Interference with the Staff Forester Prohibited.**

No person shall interfere with the Staff Forester or authorized representative while Staff Forester is engaged in carrying out any work or activities authorized by this Chapter.(Refer to Section 6-4-3 (b).)

#### **Sec. 6-4-5 Abatement of Public Nuisances, Dangerous, Obstructive and Infective Trees.**

- (a) **Tree Diseases as a Public Nuisance.** Due to the many trees growing on public and private premises within the City, the loss of which would substantially depreciate the value of public and private property, impair the use and enjoyment of public and private premises and erode the tax base of the City, and that the health and life of such trees is threatened by fatal diseases, the City intends to control and prevent the spread of tree diseases, therefore infectious, epidemic and fatal tree diseases ("Nuisance Diseases") and the insect pests and vectors which carry such diseases are declared to be public nuisances.
- (b) **Inspection.** The Staff Forester may inspect or cause to be inspected all premises and places within the City to determine whether any public nuisance exists thereon. The Staff Forester may also inspect or cause the inspection of any tree reported or suspected to be infested with an Nuisance Diseases, or any part of a tree bearing materials reported or suspected to be infested.
- (c) **Abatement of Nuisances; Duty of Staff Forester.**
- (1) The Parks & Recreation Board or its designee, upon the recommendation of the Staff Forester, shall order, direct, supervise and control the abatement of public nuisances on public properties/areas or public ways as defined in this Section by removal, burning or by other means which it determines to be necessary to prevent as fully as possible the spread of Nuisance Diseases, other deleterious tree diseases or the insect pests or vectors known to carry such diseases.
  - (2) Any tree or part thereof, whether alive or dead, which the Staff Forester finds to be infected, hazardous or a nuisance so as to be a public nuisance, endanger the public or other structures, trees, plants or shrubs, shall be removed, trimmed or treated by the owner of the property. The Staff Forester shall give written notice to said owner to remedy the situation. Such notice shall describe the public nuisance and recommend procedures for its removal or abatement and shall specifically state the period of time within which the action must be taken, which shall be within not less than twenty-four (24) hours nor more than fourteen (14) days as determined by the Staff Forester on the basis of the seriousness of the condition of the tree and/or danger to the public. The notice shall state that unless the owner abates the public nuisance in the manner specified in the notice, or appeals to the Parks & Recreation Board or its designee to show that such nuisance does not exist or does not endanger the health of trees in the City, the Parks and Recreation Board or its designee shall cause the abatement thereof and the property shall be assessed a special charge for the work completed plus an administrative fee.
  - (3) If the owner shall fail to remove, treat or trim said tree within the specified timeframe, the Staff Forester may cause the tree to be removed, treated or trimmed by order of the Parks and Recreation Board or its designee and the property shall be assessed as

a special charge for the work completed in addition to an administrative fee as set forth on the City's fee schedule.

- (4) Prior to the Staff Forester causing the work to be completed, the Parks and Recreation Board or its designee shall determine if a public nuisance exists on private property in the City and determine the method to abate or cause the abatement of such nuisance in a manner as to remove the tree or bush or to destroy or prevent as fully as possible the spread of public nuisances, other deleterious tree diseases, or the insect pests or vectors known to carry such disease.
- (5) If the property owner appeals to the Parks and Recreation Board or its designee and the appeal to halt the abatement fails, the Parks and Recreation Board or its designee shall order the immediate abatement thereof. Unless the property owner abates the nuisance as directed within five (5) days after such appeal, the Parks and Recreation Board or its designee shall proceed to abate the nuisance and cause the cost thereof to be assessed against the property, including an administrative fee, in accordance with the procedures provided in this Section. The Parks and Recreation Board or its designee may extend the time allowed the property owner for abatement work, but not to exceed ten (10) additional days.

#### **Sec. 6-4-6 Assessment of Costs of Abatement.**

- (a) The entire cost of abating any public nuisance as defined herein may 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, at the direction of the Parks and Recreation Board or its designee and Common Council in accordance with Section 66.0627 or Section 27.09, Wis. Stats.
- (b) The cost of abating a public nuisance located on private premises shall be assessed as a special charge to the property on which such public nuisance is located, as follows:
  - (1) The Staff Forester shall keep a strict account of the cost of such work 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 and subsequently the Common Council on or before October 15 of each year.
  - (2) Upon receiving the Parks and Recreation Board or its designee's report, the Council shall hold a public hearing on such proposed charges, giving at least fourteen (14) days' advance notice of the time, place and purpose of such hearing to interested persons by publication in a newspaper of general circulation in the municipality and by mail to the owner of each property proposed to be charged. Each property owner shall be notified of the amount proposed to be assessed against his premises and the work for which such charge is being made.
  - (3) After such hearing, the Common Council shall affirm, modify and affirm or disapprove such assessments by resolution and shall cause a copy thereof to be published. Upon adoption and publication of such resolution, assessments made thereby shall be deemed final.
  - (4) The City Clerk shall mail notice of the amount of such final assessment to each owner of property assessed at his last-known address, stating that, unless paid within thirty (30) days of the date of the notice, such assessment will be entered on the tax roll as a tax against the property, and all proceedings in relation to the collection, return and sale of property for delinquent real estate taxes shall apply to such assessment.

- (5) The City hereby declares that, in making assessments under this Section, it is acting under its police power, and no damages shall be awarded to any owner for the destruction of any diseased or infested tree or wood or part thereof.

**Sec. 6-4-7 Maintenance and Removal of Trees and Shrubs in Public Ways or Public Properties/Areas.**

- (a) No person, firm, organization or corporation shall remove, damage, perform major alterations on or destroy a tree or shrub in public ways or public properties/areas or cause such act to be done by others unless authorized in writing by the Staff Forester.
- (b) 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 eight (8) inches below grade measured in a straight line with the normal grade of sidewalk to top of eight (8) inches below grade measured as a straight line, normal grade of sidewalk to top of curb. All wood and debris must be removed from the street prior to the end of each working day and all holes shall be filled to normal grade level with topsoil and seeded as soon as practicable.
- (c) Public Utilities shall notify the Staff Forester prior to removal, trimming, pruning, etc., of any public tree or shrub in public ways or on public properties/areas in the City.
- (d) Any landscaping installed at the base of a public tree or shrub may be removed at the discretion of the City.

**Sec. 6-4-8 Planting of Trees and Shrubs.**

- (a) **Purpose.** The planting, care and protection of the trees within the City is desirable for the purposes of beauty, shade, comfort, stormwater runoff, noise abatement and economic betterment, and hereby encourages all persons to assist in a program of tree planting, care and protection.
- (b) **Tree Planting Program.** The Staff Forester shall establish a program for tree planting, care and protection for public properties/area and public ways. The Common Council shall also encourage the planting, care and protection of trees and shrubs on private premises within the City. Planting of trees in the terrace areas shall be according to the City approved tree planting list, as kept on file with the Staff Forester.
- (c) **Planting.**
- (1) The size and genus, species and variety of trees and shrubs to be planted in public ways shall be consistent with the City's recommended tree species list on file with the Staff Forester, and following planting requirements listed herein. The City at its discretion may remove any trees planted in public ways.
- (2) Prior to any tree or shrub planting in public properties/areas, the Staff Forester shall first be consulted regarding the size and genus, species and variety of trees and shrubs to be planted as well as the manner of planting. The City at its discretion may remove any trees planted in public properties/areas.
- (3) There shall be a minimum distance of fifteen (15) feet and a recommended distance of twenty-five (25) to thirty (30) feet between terrace area trees depending upon the size of tree and other factors. Terrace trees shall be planted equal distance between the sidewalk or proposed sidewalk and back of the curb or proposed back of curb. In terrace areas less than five (5) feet wide, planting will not be permitted. Terrace area trees shall be a minimum of twenty (20) feet from an intersection.

- (4) Evergreen trees shall not be planted in a terrace area.
- (5) It shall be unlawful to plant or maintain shrubbery, ground cover or other plants not considered to be a deciduous leaf tree within terrace areas whose growth is in excess of thirty (30) inches in height above the top of the nearest curb.
- (6) Tree grates, where required, shall be provided for terrace trees surrounded by concrete by the adjacent property owner and shall be level with adjacent concrete.
- (7) Trees or shrubs shall not be planted closer than two and a half (2.5) feet to any sidewalk or curb. Where sidewalks are not installed, trees or shrubs shall be planted in a manner to allow for future sidewalk improvements.
- (8) All new required shade trees must be a minimum of one and one-half inch (1-1/2") diameter caliper at the time of planting. All new required evergreen trees must be a minimum of six feet (6) high when planted, except for low creeping shrubs.
- (9) For all new subdivisions and commercial developments, developers shall install one (1) tree per twenty-five feet (25') of street frontage on boulevard or street frontage prior to issuance of occupancy permits.
- (10) Placement of Trees. Trees may not be planted in the boulevard closer than:
  - (a) Twenty (20) feet to a utility or street light pole;
  - (b) Fifteen (15) feet to a driveway or alley;
  - (c) Six (6) feet to a water stop box, or gas shut off;
  - (d) Ten (10 ) feet to a fire hydrant.
  - (e) Fifteen to thirty (15-30) feet to another tree; or
  - (f) Twenty (20) feet to the intersection of two (2) streets from either corner on the property line.
- (d) **Unlawfully Planted Trees.** Trees or shrubs planted within any terrace or planting easement without the authorization and approval of the Staff Forester may be removed. The Staff Forester shall notify the abutting owner in writing, listing the unlawfully planted trees or shrubs, ordering their removal, and establishing a reasonable time within which such removal shall be accomplished. In the event that removal is not to be accomplished within the time specified, the City may remove such trees, plants or shrubs and assess the costs thereof to the owner.
- (e) **Frames.** Any person, adjacent to whose land any public tree or shrub is growing in public ways or public property/areas, may, for the propose of protecting such tree or shrub, surround the same with a suitable box or frame or staking for protection, but all such work should be performed under the supervision and direction of the Staff Forester. The City may at its discretion remove frames or landscaping located in public ways or on public properties/areas.

### **Sec. 6-4-9 Trimming.**

- (a) Trees and shrubs standing in or upon any boulevard, public way, public property/area or upon any private premises adjacent to any public way or public property/areas shall be kept trimmed so that the lowest branches projecting over the public way provide a clearance of not less than fourteen (14) feet. The Staff Forester may waive the provisions of this Section for newly planted trees if the Staff Forester determines that the trees(s) do not interfere with public travel, obstruct the light of any street light or endanger public safety.

- (b) The necessity of pruning shall be determined by and may be ordered by the Staff Forester to be completed.
- (c) Clearance from sidewalk to lower branches shall not be less than ten (10) feet. All trees standing upon private property in the City, the branches of which extend over the line of the street, shall be trimmed so that no branch shall grow or hang over the line of the sidewalk lower than ten (10) feet above the level of the sidewalk. No tree shall be permitted to grow in such a manner as to obstruct the proper diffusion of light from any public lamp.
- (d) No person may remove, trim or fertilize trees in the public right-of-way or on public property unless the work is completed by a licensed arborist or designated agent of the City unless the City gives written permission for another individual to complete such work. No person shall remove or make Major Alterations to trees in the public right-of-way or on public property unless such work is approved in writing by the City Forester, or the City Forester's designee, prior to the completion of work. For the purposes of this subsection the term "Major Alteration" shall mean "trimming or pruning of more than one third (1/3) of the crown of a tree or bush."

**Sec. 6-4-10 Trees and Shrubbery Obstructing View at Intersection or View of Traffic Signs.**

- (a) Notwithstanding any other provision of this Chapter, no person shall maintain, plant or permit to remain on any private or public premises situated at the intersection of two (2) or more streets or alleys in the City any tree, shrub or other growth which may obstruct the view or life safety of the operator of any motor vehicle or pedestrian approaching such intersection.
- (b) It is unlawful for any person to plant, cause to grow, allow to grow or maintain any trees, bushes, shrubbery or vegetation of any kind which is an obstruction to the clear and complete vision of any traffic sign or driveway approach to a street in the City. It shall be the duty of every owner of such tree, bush, shrubbery or vegetation to remove such obstruction.
- (c) Any shrub, tree or other plant which obstructs the view at an intersection or the view of a traffic sign shall be deemed to be dangerous to public travel or life safety. The Staff Forester shall notify the abutting owner in writing, listing the planted trees, plants or shrubs, ordering their trimming/removal, and establishing a reasonable time within which such trimming/removal shall be accomplished. In the event that trimming/removal is not accomplished within the time specified, the Board of Public Works may order the trimming/removal such trees, plants or shrubs and property shall be special assessed for the work completed in addition to an administrative fee.

*Cross Reference: Traffic Visibility- Section 13-7-13.*

**Sec. 6-4-11 Prohibited Acts.**

- (a) **Damage to Public Trees.** No person shall perform or cause to be performed by others any of the following acts:
  - (1) Secure, fasten or run any rope, wire sign, unprotected electrical installation or other device or material to, around or through a tree or shrub.
  - (2) Break, injure, mutilate, deface, kill or destroy any tree or shrub or permit any fire to burn where it will injure any tree or shrub.

- (3) Permit any toxic chemical, gas, smoke, oil or other injurious substance to seep, drain or be emptied upon or about any tree or shrub or place concrete/asphalt or other solid substance around the base of the same.
  - (4) Remove any guard, stake, tree gator bag or other device or material intended for the protection of a public tree or shrub, or close or obstruct any open space about the base of a public tree or shrub designed to permit access of air, water and fertilizer.
  - (5) Attach any sign, poster, notice or other object on any tree, or fasten any guy wire, cable, rope, nails, screws or other device to any tree; except that the City may tie official regulatory temporary 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.
  - (7) It is prohibited to plant trees that reach a maximum, mature height of greater than twenty-five (25) feet underneath any overhead utility line.
- (b) **Excavations.**
- (1) All trees on any parkway or other publicly owned property near any excavation or construction of any building structure or street work shall be sufficiently guarded and protected by those responsible for such work as to prevent any injury to said trees. No person shall excavate any ditches, tunnels or trenches, or install pavement within a radius of ten (10) feet from any public tree without a Street Opening / Work in Right-of-Way Permit from the Engineering Department. Any person seeking a permit to excavate near a tree in a public street, alley, highway, or boulevard shall submit a written proposed plan to the Engineering Department as part of the permit application with clear and specific identification of the trees in a public street, alley, highway or boulevard which the person is targeting for excavation. The identification shall include the name and block number(s), address(s) of the street(s) on which the trees are located.
  - (2) The Staff Forester has the authority to approve or deny the permit and assess violations as outlined in this Chapter if the work is not performed in accordance with accepted arboricultural standards. Any public tree that is damaged to the extent of not gaining full recovery in the opinion of the Staff Forester will be replaced through payment from the person causing the damage. Cost will be the value as determined in the City Tree Inventory, if the tree is not part of an inventory the cost will equal \$200/inch measured at diameter breast height or 4.5 feet from ground level.

### **Sec. 6-4-12 Appeal from Determinations or Orders.**

Any person who receives a determination or order under this Chapter from the Staff Forester or the Parks and Recreation Board or its designee and objects to all or any part thereof shall have the right to appeal such determination or order, subject to the provisions of Chapter 68, Wis. Stats., to the Parks & Recreation Board or its designee within seven (7) days of receipt of the order. The Parks & Recreation Board or its designee shall hear such appeal within forty-five (45) days of receipt of written notice of the appeal. After such hearing, the Common Council may reverse, affirm or modify the order or determination appealed from and the grounds for its decision shall be stated in writing. The Common Council shall, by letter, notify the party appealing the order or determination of its decision within ten (10) days after the hearing has been concluded. The Council shall file its written decision with the City Clerk.

**Sec. 6-4-13 Adoption of State Statutes.**

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

*State Law Reference:* Sections 27.09 and 86.03, Wis. Stats.

**Sec. 6-4-14 Violations.**

Any person, firm or corporation violating any of the provisions of this Ordinance shall upon conviction thereof be subject to a forfeiture between fifty (\$50.00) and five hundred (\$500.00) dollars. Each day that such violation is not remedied, shall be considered a separate offense.

**Sec. 6-4-15 Emergencies.**

The Staff Forester, in the case of emergencies, such as windstorms, ice storms, insect/disease outbreaks or other disasters, may waive the requirements of this Ordinance so that private or public work to restore order in the City is in no way hindered.

**Sec. 6-4-16 Severability.**

Should any section, subsection, clause, or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance in whole or in any part thereof other than the part so declared to be invalid.

**Sec. 6-4-17 Arboricultural Standards.**

All work performed must be performed in compliance of accepted arboricultural standards.

SECTION II. This Ordinance shall take effect and be in force from and after its passage and prior to publication although it will be published in due course.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2015.

CITY OF ONALASKA

By: \_\_\_\_\_  
Joe Chilsen, Mayor

By: \_\_\_\_\_  
Caroline Burmaster, Clerk

PASSED:  
APPROVED:  
PUBLISHED:

FISCAL IMPACT OF ORDINANCE 1512 - 2015

Please route in this order

Brea Grace, Land Use & Development Director  
(let Joe Barstow review all annexation ordinances)

Brea Grace 9/28/15  
(signature)

No Fiscal Impact

Budgeted Item

Will need \$ \_\_\_\_\_ for \_\_\_\_\_ to meet the requirements of this ordinance.

Jarrod Holter, City Engineer

ejd wt 9-28-15  
(signature)

No Fiscal Impact

Budgeted Item

Will need \$ \_\_\_\_\_ for \_\_\_\_\_ to meet the requirements of this ordinance.

ORDINANCE NO. 1512-2015

AN ORDINANCE TO AMEND CHAPTER 4 OF TITLE 6,  
SECTION 50 OF THE CODE OF ORDINANCES OF THE CITY OF ONALASKA  
RELATING TO TREES AND SHRUBS

THE COMMON COUNCIL OF THE CITY OF ONALASKA DOES HEREBY ORDAIN AS  
FOLLOWS:

SECTION I. Title 6, Chapter 4 of the City of Onalaska Code of Ordinances related to the  
Trees and Shrubs is hereby deleted in its entirety and replaced as follows:

## **Chapter 4**

### **Trees and Shrubs**

- 6-4-1 Statement of Policy and Applicability of Chapter
- 6-4-2 Definitions
- 6-4-3 Staff Forester
- 6-4-4 Interference with Staff Forester Prohibited
- 6-4-5 Abatement of ~~Tree Disease~~ Public Nuisances, Dangerous, Obstructive, and Infective  
Trees
- 6-4-6 Assessment of Costs of Abatement
- 6-4-7 ~~Planting, Maintenance and Removal of Trees and Shrubs in Public Ways or Public  
Properties/Areas~~
- 6-4-8 Planting of Trees and Shrubs
- 6-4-9 Trimming
- 6-4-10 Trees and Shrubbery Obstructing View at Intersections or View of Traffic Signs  
View of Traffic Signs
- 6-4-11 Removal of Trees and Stumps
- 6-4-12 Prohibited Acts
- 6-4-13 ~~12~~ Appeal from Determinations and Orders
- 6-4-14 ~~13~~ Adoption of State Statutes
- 6-5-14 Violations
- 6-5-15 Emergencies
- 6-5-16 Severability
- 6-5-17 Arboricultural Standards

**Sec. 6-4-1 Statement of Policy and Applicability of Chapter.**

- (a) **Intent and Purpose.** It is the policy of the City to regulate and establish policy for the control of planting, removal, maintenance and protection of trees and shrubs in or upon all

public areas and terrace areas of the City to eliminate and guard against dangerous conditions which may result in injury to persons using the streets, alleys, sidewalks or other public areas; to promote and enhance the beauty and general welfare of the City; to prohibit the undesirable and unsafe planting, removal, treatment and maintenance of trees and shrubs located in public areas; and to guard all trees and shrubs both public and private within the City against the spread of disease, insects or pests.

- (b) **Application.** The provisions of this Chapter shall apply to trees and shrubs growing or hereafter planted in or upon public areas and terrace areas and also to all trees and shrubs growing or to be planted in or upon any private premises which shall threaten the life, health, safety or welfare of the public or of any public areas.

**Sec. 6-4-2 Definitions.**

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

- (a) ~~Person.~~
- (b) ~~Public Areas. Includes all public parks, playgrounds, recreation areas, park ways, common open spaces, greenways, forests, conservancies and other lands owned or leased by the City under the authority of the Parks and Recreation Board.~~
- (c) ~~Public Ways. Shall include all public streets, roads, right of ways, boulevards, terraces, alleys, sidewalks, cemeteries, and other lands owned or leased by the City and under the authority of the Board of Public Works.~~
- (d) ~~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 endangers the life, health, safety or welfare of persons or property.~~
- (f) ~~Boulevard or Terrace Areas. The land between the normal typical location of the street edge or curbing and the street right-of-way. Where there is no curb and gutter, the edge of the road way (pavement or gravel) to the right-of-way line shall be deemed to be a boulevard for the purpose of this Chapter. "Boulevard" shall have the same meaning as "terrace". Where there are no sidewalks, the area from the curbing or edge of street to the right-of-way line shall be deemed boulevard areas under this Chapter.~~
- (b) Critical Root Radius (CRR). 1.5 feet for every diameter inch at diameter at breast height (DBH), as relating to excavations near trees.
- (c) Evergreen Tree. Any woody plant normally having one stem or trunk and bearing foliage in the form of needles and crowns which extend from ground level throughout its entire height.
- (g) ~~(d)~~ Frames. A dev
- (e) Major Alteration. Trimming a tree beyond one-third (1/3) of the crown.
- (f) Person. Person, firm, firm, business, association or association, corporation or other legal entity necessary trimming to comply
- (g) Public Nuisance. Any deleterious or fatal tree disease. Any tree or shrub or part thereof which, by reason of its condition and location, is hazardous and/or interferes with this Chapter the use of any public property/area or public ways; infected with a plant disease; infested with injurious insects or pests; injurious to public improvements or endangers the life, health, safety or welfare of persons or property.
- (h) Public Properties/Areas. Land owned or controlled by the City, including without limitation because of enumeration, public sites, parks, playgrounds, recreation areas, park ways, common open spaces, greenways, forests, conservancies and other lands owned or leased by the City under the authority of the Parks and Recreation Board.
- (i) Public Trees and Shrubs. All trees and shrubs located or to be planted in or upon public areas.
- ((h)j) Public Ways. All public streets, roads, right-of-ways, boulevards, terraces strips between public lot lines and curbs, alleys, sidewalks, cemeteries, and other lands owned or leased by the City and under the authority of the Board of Public Works.
- (k) Shrubs. Any woody vegetation or a woody plant having multiple stems and bearing foliage from the ground up.

- ~~(i) **Tree.** Any woody plant, normally having one stem or trunk bearing its foliage or crown well above ground level to heights of sixteen feet or more.~~
- ~~(j)(1)(k) **Staff Forester.** Person designated by the Parks and Recreation Board and the Board of Public Works as authorized to carry out provisions of this Chapter.—~~
- ~~(m) **Top, Topping.** The severe cutting back of limbs to stubs within the tree crown to such a degree so as to remove normal canopy and disfigure the tree.~~
- ~~(n) **Tree.** Any woody plant, normally having one stem or trunk bearing its foliage or crown well above ground level to heights of sixteen feet or more.~~
- ~~(o) **Urban Forest.** The collection of trees in and around the City, including park and street trees on public property and on private property.~~

**Sec. 6-4-3 Staff Forester.**

- ~~(a) **Parks and Recreation Board Appointment.** The Parks and Recreation Board may designate a municipal employee(s) or citizen(s) to perform the duties of Staff Forester under Chapter 27.09, Wis. Stats., and may authorize such Staff Forester to perform the duties and exercise the powers imposed by this Chapter. The Staff Forester shall have the following general powers and duties:~~

~~Forester to perform the duties and exercise~~

~~the powers imposed by this Chapter. The Staff Forester shall have the following general powers and duties:~~

- ~~(1) To direct, manage, supervise, and control the planting, removal, maintenance, protection of all trees and shrubs on all public properties, areas and ways; to supervise Park Department personnel in the planting, removal, maintenance, and protection of said trees and shrubs.~~
- ~~(2) To guard all trees and shrubs within the City located on public areas so as to prevent the spread of disease or pests and to eliminate dangerous conditions which may affect the life, health or safety of persons or property.~~
- ~~(3) To enforce this ordinance as it pertains to trees and shrubs on private premises.~~
- ~~(4) Such other powers and duties as are provided by the laws of Wisconsin, particularly SectionSections 27.08 and 27.09, Wis. Stats., by ordinance of the City and by the Parks and Recreation Board.~~

- ~~(b) **Board of Public Works Appointment.** The Board of Public Works may designate a municipal employee(s) or citizen(s) to perform the duties of Staff Forester under Chapter 27.09 of Wisconsin State Statutes and may authorize such Staff Forester to perform the duties and exercise the powers imposed by this Chapter. The Staff Forester shall have the following general powers and duties:~~

- ~~(1) To direct, manage, supervise, and control the planting, removal, maintenance, and protection of all trees and shrubs on all public ways; to supervise Street Department personnel in the planting, removal, maintenance, and protection of said trees and shrubs.~~
- ~~(2) To guard all trees and shrubs within the City located on public ways so as to prevent the spread of disease or pests and to eliminate dangerous conditions which may affect the life, health or safety of persons or property.~~
- ~~(3) To enforce this ordinance as it pertains to trees and shrubs on private premises.~~

**Comment (a1):** 27.09 specifically authorizes the Park Board or the Board of Public Works, all of the authority should come from the Board of Park Commissioners.

- ~~(4) Such other powers and duties as are provided by the laws of Wisconsin, particularly Section Sections 27.08 and 27.09 and the ordinances of the City and policies of the Board of Public Works.~~
- (be) **Right-of-Entry.** The City Staff Forester or other authorized City representatives may make a request to enter upon private premises at all reasonable times for the purpose of examining any tree or shrub located upon or over such premises and carrying out any of the provisions of this Chapter. If a request to inspect such trees or shrubs is denied by the person responsible for the property, an inspection warrant may be obtained pursuant to Sec. 66.01140119, Wis. Stats.
- (cd) **Inspection.** The Staff Forester may inspect or cause to be inspected all premises and places within the City to determine whether any public nuisance exists thereon. The Staff Forester may also inspect or cause the inspection of any tree reported to be public nuisance or suspected to be infested with a deleterious or fatal tree disease or any part of a tree bearing materials reported or suspected to be infested.
- (de) **Maintenance/Removal.** Staff Forester or other authorized agent may trim, prune, or remove a tree or shrub located on or hanging into public properties/areas and public ways as necessary as determined by the Staff Forester, due to disease, damage, hazardous condition and/or location, public nuisance, or if it's location is such that substantial detriment is done to the property upon which the tree or shrub stands, or property abutting the same. Staff Forester shall cause maintenance and/or removal of a tree or shrub on private premise (as Per Section 6-4-5).

**Sec. 6-4-4 Interference with the Staff Forester Prohibited.**

No person shall interfere with the Staff Forester or his authorized representative while they are Staff Forester is engaged in carrying out any work or activities authorized by this Chapter. (Refer to Section 6-4-53 (be).)

**Sec. 6-4-5 Abatement of Tree Disease Public Nuisances, Dangerous, Obstructive and Infective Trees.**

- (a) **~~Dutch Elm and Other Tree Diseases as a Public Nuisance.~~** ~~Whereas the Common Council~~  
~~has determined that there are Due to the many trees growing on public and private premises within the City, the loss of which would substantially depreciate the value of public and private property, impair the use and enjoyment of public and private premises and erode the tax base of the City, and that the health and life of such trees is threatened by fatal diseases, the Common Council hereby declares its City intendstion to control and prevent the spread of tree diseases, therefore infectious, epidemic and -fatal tree diseases ("Nuisance Diseases") and the insect pests and vectors which carry such diseases are declared to be ppublic nnuisances.~~  
~~property, impair the use and enjoyment of public and private premises and erode the tax base of the City, and that the health and life of such trees is threatened by fatal diseases such as Dutch Elm disease, which is spread by the elm bark beetles Scolytus multistriatus (Eichb.) or Hylurgopinus rufepes (Marsh.), the Common Council hereby declares its~~

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~~intention to control and prevent the spread of such disease and the insect pests and vectors which carry such diseases and specifically declares Dutch Elm disease and the elm bark beetles which carry such disease to be public nuisances.~~

~~(b) Definitions. As used in this Section, unless otherwise clearly indicated by the context:~~

~~(1) "Public Nuisance" means:~~

~~a. Dutch Elm disease.~~

~~b. Elm bark beetles Scolytus multistriatus (Eichb.) or Hylurgopinus rufipes (Marsh.).~~

~~c. Any living or standing elm tree or part thereof infected with the Dutch Elm disease fungus or in a weakened condition which harbors any of the elm bark beetles, Scolytus multistriatus (Eichb.) or Hylurgopinus rufipes (Marsh.).~~

~~d. Any dead elm tree or part thereof, including logs, branches, stumps, firewood or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle destroying concentrate.~~

~~e. Any other deleterious or fatal tree disease.~~

~~f. Any tree or part thereof which by reason of its condition and location is hazardous or dangerous to persons and property using or upon any public street, sidewalk, alley, park or other public place, including the terrace strip between curb and lot line.~~

~~g. Any tree or part thereof which is infested by the eastern tent caterpillar or other defoliating larvae.~~

~~(2) "Public property" means owned or controlled by the City, including without limitation because of enumeration, public sites, parks, playgrounds, streets, alleys, sidewalks, boulevards, and the terrace strip between the lot line and the curb or improved portion of any public way.~~

~~(3) "Person" means person, firm or corporation.~~

~~(c) Inspection.~~

~~(1) The Staff Forester shall may inspect or cause to be inspected all premises and places within the City to determine whether any public nuisance exists thereon. He shall The Staff Forester may also inspect or cause the inspection of any elm tree reported or suspected to be infested with the Dutch Elm disease an Nuisance Diseases. or any elm bark part of a tree 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 fatal injury thereto and deliver such specimens to the Forester who shall forward them to the Wisconsin Department of Agriculture at Madison for analysis to determine the presence of such nuisances.

**(d)(c) Abatement of Nuisances; Duty of Staff Forester.**

- (1) The Board of Public Works or Parks & Recreation Board or its designee, upon the recommendation of the Staff Forester, shall order, direct, supervise and control the abatement of public nuisances on public properties/areas or public ways as defined in this Section by spraying, removal, burning or by other means which it determines to be necessary to prevent as fully as possible the spread of Dutch Elm disease fungus, public nuisances, Nuisance Diseases, other deleterious tree diseases or the insect pests or vectors known to carry such diseases.
- (2) Whenever the Forester after inspection of any tree or examination shall determine that part thereof, whether alive or dead, which the Staff Forester finds to be infected, hazardous or a nuisance so as to be a public nuisance as herein defined exists on, endanger the public property in the City, he shall ask the Board of Public Works to 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) a. When the Board of Public Works shall determine with reasonable certainty that a public nuisance exists upon private premises, it shall immediately serve other structures, trees, plants or shrubs, shall be removed, trimmed or cause to be served personally or treated by registered mail upon the owner of such property, if he can be found, or upon the occupant thereof, at the property. The Staff Forester shall give written notice of the existence of such nuisance and of a time and place for a hearing before the Board of Public Works, not less than fourteen (14) days after service of such notice, on the abatement action to be taken to said owner to remedy the situation. Such notice shall describe the public nuisance and recommend procedures for its removal or abatement, and shall further specifically state that unless the owner shall abate the the period of time within which the action must be taken, which shall be within not less than twenty-four (24) hours nor more than fourteen (14) days as determined by the Staff Forester on the basis of the seriousness of the condition of the tree and/or danger to the public. The notice shall state that unless the owner abates the public nuisance in the manner specified in the notice, or shall appear at the hearing appeals to the Parks & Recreation Board or its designee Board of Public Works to show that such nuisance does not exist or does not endanger the health of trees in the City, the Board of Public Works Parks and Recreation Board or its designee shall cause the abatement thereof at the expense of the property served. If the owner cannot be found, such notice shall be given by publication in a newspaper of general circulation in the City and the property shall be special assessed assessed a special charge for the work completed plus an administrative fee.
- b. (3) If the owner shall fail to remove, treat or trim said tree within the specified timeframe, the Staff Forester may cause the tree to be removed, treated or trimmed by order of the Board of Public Works Parks and Recreation Board or its designee

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~~and the property shall be special assessed as a special charge for the work completed in addition to an administrative fee as set forth on the City's fee schedule.~~

- (4) ~~Prior to the Staff Forester causing the work to be completed, the Parks and Recreation Board or its designee Board of Public Works shall determine if a public nuisance exists on private property in the City and determine the method to abate or cause the abatement of such nuisance in a manner as to remove the tree or bush or to destroy or prevent as fully as possible the spread of public nuisances, other deleterious tree diseases, or the insect pests or vectors known to carry such disease.~~
- (5) ~~If, after hearing held pursuant to this Subsection, it shall be determined by the the property owner appeals to the Parks and Recreation Board or its designee Board of Public Works that a public nuisance exists, it and the appeal to halt the abatement fails, the Parks and Recreation Board or its designee Board of Public Works shall forthwith order the immediate abatement thereof. Unless the property owner abates the nuisance as directed within five (5) days after such hearing appeal, the Parks and Recreation Board or its designee the Board of Public Works shall proceed to abate the nuisance and cause the cost thereof to be assessed against the property, including an administrative fee, in accordance with the procedures provided in this Section. The Parks and Recreation Board or its designee Board of Public Works may extend the time allowed the property owner for abatement work, but not to exceed ten (10) additional days.~~

~~(e) Spraying.~~

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

**Sec. 6-4-6 Assessment of Costs of Abatement.**

(a) The entire cost of abating any public nuisance ~~or spraying trees as defined herein shall~~ may 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, at the direction of the Parks and Recreation Board or its designee Board of Public Works and Common Council in accordance with Section 66.60(16)0627 or Section 27.09, Wis. Stats. The

~~cost of abating any such nuisance or part thereof which is located in or upon any park shall be borne by the City.~~

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(b) The cost of abating a public nuisance ~~or spraying elm trees, elm wood or trees infected with other tree diseases located on private premises when done at the direction and under~~ shall be special assessed as a special charge to the property on which such public nuisance is located, as follows:

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(1) ~~The Staff Forester shall be assessed to the~~ property on which such nuisance, tree or wood is located as follows:

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(1) ~~The Board of Public Works 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 Board of Public Works and subsequently the Common Council on or before October 15 of each year.~~

(2) Upon receiving the Parks and Recreation Board or its designee's Board of Public Works report, the Council shall hold a public

~~hearing on such proposed charges, giving at least fourteen (14) days' advance notice of the time, place and purpose of such hearing to interested persons by publication in a newspaper for which such charge is being made.~~

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(3) After such hearing, the Common Council shall affirm, modify and affirm or disapprove such assessments by resolution and shall cause a copy thereof to be published. Upon adoption and publication of such resolution, assessments made thereby shall be deemed final.

(4) The City Clerk shall mail notice of the amount of such final assessment to each owner of property assessed at his last-known address, stating that, unless paid within thirty (30) days of the date of the notice, such assessment will be entered on the tax roll as a tax against the property, and all proceedings in relation to the collection, return and sale of property for delinquent real estate taxes shall apply to such assessment.

(5) The City hereby declares that, in making assessments under this Section, it is acting under its police power, and no damages shall be awarded to any owner for the destruction of any diseased or infested tree or wood or part thereof.

**Sec. 6-4-7 Planting, Maintenance and Removal of Trees and Shrubs in Public Ways or Public Properties/Areas.**

(a) ~~Permit Required. No person, except upon order of the Staff Forester firm, organization or Street Commissioner, corporation shall plant or remove, or damage, perform major alterations as determined by the Forester or Street Commissioner on or destroy a tree or shrub in the public right-of-way terrace areaways or public properties/areas or cause such act to be done by others without first obtaining permission for such work from the Staff~~

Forester or Street Commissioner as herein provided. The applicant shall comply with the planting standards of Section 6-4-8 unless authorized in writing by the Staff Forester.

- (b) ~~Permit Exemptions.~~ No permit shall be required to cultivate, fertilize or water trees or shrubs or for work by City personnel on park properties. No permit is necessary to plant trees inside the property line.
- (c) ~~Permit Issuance.~~ If the Staff Forester determines that the proposed work or planting described in an application for a permit is necessary and in accord with the purposes of this Chapter, taking into account the safety, health and welfare of the public, location of utilities, public sidewalk, driveways and street lights, general character of the area in which the tree or shrub is located or proposed to be located, type of soil, characteristics and physiological need of the genus, species and variety of tree or shrub, he shall issue a permit to the applicant.
- (d) ~~Permit Form; Expiration; Inspection.~~ Every permit shall be issued by the Staff Forester on a standard form and shall include a description of the work to be done and shall specify the genus, species and variety, size, nursery grade and location of trees or shrubs to be planted, if any. Any work under such permit must be performed in strict accordance with the terms thereof and the provisions of this Chapter. Permits issued under this Section shall expire six (6) months after date of issuance. There will be no charge for this permit.
- (e) ~~Permits to Public Utilities.~~
  - (1) ~~Whenever a permit is issued under this Section to a public utility to remove, trim, prune, cut, disturb, alter or perform surgery on any public tree or shrub, the Staff Forester shall limit the work to be done to the actual necessities of the utility and may assign an inspector to supervise the work done under the provisions of the permit. The expense of such inspection or supervision shall be charged to the utility at the usual City rate.~~
  - (2) ~~A public utility may secure an annual working agreement with the Staff Forester's office which gives the Staff Forester the authorization to supervise and direct work associated with trees and shrubs.~~
- (b) 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 eight (8) inches below grade measured in a straight line with the normal grade of sidewalk to top of eight (8) inches below grade measured as a straight line, normal grade of sidewalk to top of curb. All wood and debris must be removed from the street prior to the end of each working day and all holes shall be filled to normal grade level with topsoil and seeded as soon as practicable.
- (c) Public Utilities shall notify the Staff Forester prior to removal, trimming, pruning, etc., of any public tree or shrub in public ways or on public properties/areas in the City.
- (d) Any landscaping installed at the base of a public tree or shrub may be removed at the discretion of the City.

#### **Sec. 6-4-8 Planting of Trees and Shrubs.**

- (a) **Purpose.** The Common Council hereby states its determination that the planting, care and protection of the trees within the City is desirable for the purposes of beauty, shade, comfort, stormwater runoff, noise abatement and economic betterment, and hereby encourages all persons to assist in a program of tree planting, care and protection.

- (b) **Tree Planting Program.** The Staff Forester shall recommend to the Common Council establish a program for tree planting, care and protection for public parks/properties/area and public ways. The Common Council shall also encourage the planting, care and protection of trees and shrubs on private premises within the City. Planting of trees in the terrace areas shall be according to the City approved tree planting list, as kept on file with the Staff Forester.
- (c) **Planting.**
- (1) The size and genus, species and variety of trees and shrubs to be planted in terraces, public ways shall be consistent with the City's recommended tree bank/species list on file with the City Staff Forester, and boulevards following planting requirements listed herein. The City at its discretion may remove any trees planted in public ways.
  - (2) Prior to any tree or shrub planting in public properties/areas, the City Staff Forester designated by the Parks & Recreation Board shall first be consulted regarding the size and genus, species and variety of trees and shrubs to be planted as well as the manner of planting shall be submitted to the Staff Forester for approval before commencement of such work. The permit application process is required in Section 6-4-7. The City at its discretion may remove any trees planted in public properties/areas.
  - (23) There shall be a minimum distance of sixteen (16) fifteen (15) feet and a recommended distance of twenty-five (25) to fifty (50) thirty (30) feet between terrace area trees depending upon the size of tree and other factors. Terrace trees shall be planted equal distance between the sidewalk or proposed sidewalk and back of the curb or proposed back of curb. In terrace areas less than three (3) five (5) feet wide, planting will not be permitted. Terrace area trees shall be a minimum of twenty-five (25) (20) feet from an intersection.
  - (34) Evergreen trees shall not be planted in a terrace area.
  - (5) It shall be unlawful to plant or maintain shrubbery, ground cover or other plants not considered to be a deciduous leaf tree within terrace areas whose growth is in excess of eight (8) thirty (30) inches in height above the top of the nearest curb.
  - (56) Tree grates, where required, shall be provided for terrace trees surrounded by concrete by the adjacent property owner and shall be level with adjacent concrete.
  - (6) ~~Per City policy, trees 7)~~ Trees or shrubs shall not be planted closer than three (3) two and a half (2.5) feet to any sidewalk or curb. Where sidewalks are not installed, trees or shrubs shall be planted in a manner to allow for future sidewalk improvements.
  - (78) All new required shade trees must be a minimum of ~~two~~ one and one-half inch (2 1/2") diameter caliper at the time of planting. All new required evergreen trees must be a minimum of six feet (6) high when planted, except for low creeping shrubs.
  - (8) ~~All new required trees must be balled and burlapped. All new required shrubs may be potted or balled and burlapped.~~
  - (9) For all new subdivisions and commercial developments, developers shall ~~provide~~ install one (1) tree per twenty-five feet (25') of street frontage on boulevard of street frontage prior to issuance of occupancy permits.

(10) Placement of Trees. Trees may not be planted in the boulevard closer than:

(a) Twenty (20) feet to a utility or street light pole;

(b) Fifteen (15) feet to a driveway or alley;

(c) Six (6) feet to a water stop box, or gas shut off;

(d) Ten (10) feet to a fire hydrant;

(e) Fifteen to thirty (15-30) feet to another tree; or

(f) Twenty (20) feet to the intersection of two (2) streets from either corner on the property line.

- (d) **Unlawfully Planted Trees.** Trees, plants or shrubs planted within any terrace or planting easement without the authorization and approval of the Staff Forester may be removed. The Staff Forester shall notify the abutting owner in writing, listing the unlawfully planted trees, plants or shrubs, ordering their removal, and establishing a reasonable time within which such removal shall be accomplished. In the event that removal is not to be accomplished within the time specified, the City may remove such trees, plants or shrubs and assess the costs thereof to the owner.
- (e) **Frames.** Any person, adjacent to whose land any shade or ornamental public tree or shrub is growing in ~~any street~~ public ways or public property/areas, may, for the propose of protecting such tree or shrub, surround the same with a suitable box or frame or staking for protection, but all such work ~~shall~~ should be performed under the supervision and direction of the Staff Forester. The City may at its discretion remove frames or landscaping located in public ways or on public properties/areas.

#### **Sec. 6-4-9 Trimming.**

- (a) Trees and shrubs standing in or upon any boulevard, public way, public property/area or upon any private premises adjacent to any public right-of-way or public property/areas shall be kept trimmed so that the lowest branches projecting over the public street or alleyway provide a clearance of not less than fourteen (14) feet. The Staff Forester may waive the provisions of this Section for newly planted trees if ~~the~~ the Staff Forester determines that ~~they~~ the trees(s) do not interfere with public travel, obstruct the light of any street light or endanger public safety.
- (b) The necessity of the pruning ~~may~~ shall be determined by and may be ordered by the Staff Forester to be completed.
- (c) Clearance from sidewalk to lower branches shall not be less than ten (10) feet. All trees standing upon private property in the City, the branches of which extend over the line of the street, shall be trimmed so that no branch shall grow or hang over the line of the sidewalk lower than ten (10) feet above the level of the sidewalk. No tree shall be permitted to grow in such a manner as to obstruct the proper diffusion of light from any public lamp.
- (d) No person may trim public trees on public ways or public properties/area unless work is completed by a licensed arborist or designated agent of the City. Trimming or pruning of more than two-thirds (2one-third (1/3) of the crown of trees in public ways or on public properties/areas shall be considered to be a major alteration and shall require a permit receive approval from the Staff Forester prior to completion of the work. No person may remove trees in public ways or public properties/areas unless issued written authorization by the City Forester.

**Sec. 6-4-10 Trees and Shrubbery Obstructing View at Intersection or View of Traffic Signs.**

- (a) Notwithstanding any other provision of this Chapter, no person shall maintain, plant or permit to remain on any private or public premises situated at the intersection of two (2) or more streets or alleys in the City any hedge, tree, shrub or other growth which may obstruct the view or life safety of the operator of any motor vehicle or pedestrian approaching such intersection.
- (b) It is unlawful for any person to plant, cause to grow, allow to grow or maintain any trees, bushes, shrubbery or vegetation of any kind which is an obstruction to the clear and complete vision of any traffic sign or driveway approach to a street in the City. It shall be the duty of every owner of such tree, bush, shrubbery or vegetation to remove such obstruction.
- (c) Any shrub, tree or other plant which obstructs the view at an intersection or the view of a traffic sign shall be deemed to be dangerous to public travel and the Board of Public Works, upon the recommendation of the Staff Forester, may order, by written notice, the owner or occupant of any private place or premises on which there stands a tree or shrub which unreasonably interferes with or encroaches upon the street or sidewalk, to take such steps as are necessary to remove such interference. If such owner or occupant fails, within ten (10) days of receipt of notice, to take such necessary steps, the Board of Public Works and/or Common Council shall order City employees to remove the interference. The cost of removing the interference shall be levied and collected as a special tax upon the property upon which or in front of which such tree or shrub stands or life safety. The Staff Forester shall notify the abutting owner in writing, listing the planted trees, plants or shrubs, ordering their trimming/removal, and establishing a reasonable time within which such trimming/removal shall be accomplished. In the event that trimming/removal is not accomplished within the time specified, the Board of Public Works may order the trimming/removal such trees, plants or shrubs and property shall be special assessed for the work completed in addition to an administrative fee.
- (d) ~~Any person who is an owner or occupant or firm or corporation failing to obey the written notice as specified in Subsection (c) above shall, upon conviction thereof, be subject to a forfeiture as established in 1-1-7 of this Code of Ordinances.~~

*Cross Reference: Traffic Visibility- Section 13-1-997-13.*

**Sec. 6-4-11 Removal of Trees and Stumps.**

- (a) ~~**Dangerous, Obstructive and Infected Trees.** Any tree or part thereof, whether alive or dead, which the Staff 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 City, 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 Staff Forester shall give written notice to said owner to remedy the situation which shall be served personally or posted upon the affected tree. Such notice shall specifically state the period~~

of time within which the action must be taken, which shall be within not less than twenty-four (24) hours nor more than fourteen (14) days as determined by the Staff 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 Staff Forester shall cause the tree to be removed, treated or trimmed and shall report the full cost thereof to the City Clerk, who shall thereupon enter such cost as a special charge against the property.

(b) ~~Removal Standards.~~ In cutting down trees located in public and terrace areas, the tree must be removed with the root stump grubbed out, or ground out to a depth of at least nine (9) inches below grade measured in a straight line with the normal grade of sidewalk to top of nine (9) inches below grade measured as a straight line, normal grade of sidewalk to top of curb. All wood and debris must be removed from the street prior to the end of each working day and all holes shall be filled to normal grade level with topsoil as soon as practicable. The abutting property owner shall have a right of first refusal to keep the wood, provided such wood is not diseased.

(c) ~~Private Removal.~~ No person, firm, organization or corporation shall plant, injure, trim, remove or destroy any tree or shrub located in or upon any public place, until a permit shall have been issued by the Staff Forester. Such permit shall be issued only when the removal, trimming or cutting of the tree or shrub is necessary, as determined by the Staff Forester, because of disease, damage, hazardous condition, and/or location, or its location is such that substantial detriment is done to the property upon which the tree or shrub stands, or property abutting the same. Such permit shall expressly state the premises upon which the tree stands and the location of the tree thereon.

#### ~~6-4-12 Prohibited Acts.~~

(a) ~~Damage to Public Trees.~~ No person shall, without the consent of the owner in the case of a private tree or shrub, or without written permits from the Staff Forester in the case of a terrace area tree, public tree or shrub, ~~No person shall~~ perform or cause to be performed by others any of the following acts:

- ~~(1) Secure, fasten or run any rope, wire sign, unprotected electrical installation or other device or material to, around or through a tree or shrub.~~
- ~~(2) Break, injure, mutilate, deface, kill or destroy any tree or shrub or permit any fire to burn where it will injure any tree or shrub.~~
- ~~(3) Permit any toxic chemical, gas, smoke, oil or other injurious substance to seep, drain or be emptied upon or about any tree or shrub or place cement/concrete/asphalt or other solid substance around the base of the same.~~
- (4) Remove any guard, stake, tree gator bag or other device or material intended for the protection of a public tree or shrub, or close or obstruct any open space about the base of a public tree or shrub designed to permit access of air, water and fertilizer.
- (5) Attach any sign, poster, notice or other object on any tree, or fasten any guy wire, cable, rope, nails, screws or other device to any tree; except that the City may tie official regulatory 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.
- (7) It is prohibited to plant trees that reach a maximum, mature height of greater than twenty-five (25) feet underneath any overhead utility line.

(b) **Excavations.**

- (1) All trees on any parkway or other publicly owned property near any

excavation or construction of any building structure or street work shall be sufficiently guarded and protected by those responsible for such work as to prevent any injury to said trees. No person shall excavate any ditches, tunnels or trenches, or install pavement within a radius of ten (10) feet from any public tree without a permit from the Staff Forester Street Opening / Work in Right-of-Way Permit from the Engineering Department. Any person seeking a permit to excavate near a tree in a public street, alley, highway, or boulevard shall submit a written proposed plan to the Engineering Department as part of the permit application with clear and specific identification of the trees in a public street, alley, highway or boulevard which the person is targeting for excavation. The identification shall include the name and block number(s), address(s) of the street(s) on which the trees are located.

~~(c) Interference With Forester. No person shall:~~

- ~~(1) Interfere with or prevent any acts of the Forester or his agents or employees while they are engaged in the performance of duties imposed by this Section.~~
- ~~(2) Refuse to permit the Forester or his duly authorized representative to enter upon his premises at reasonable times to exercise the duties imposed by this Section.~~

~~(d) Refusal to Abate Nuisance. Permits any public nuisance to remain on any premises owned or controlled by him when ordered by the Forester to abate such nuisance.~~

- (2) The Staff Forester has the authority to approve or deny the permit and assess violations as outlined in this Chapter if the work is not performed in accordance with accepted arboricultural standards. Any public tree that is damaged to the extent of not gaining full recovery in the opinion of the Staff Forester will be replaced through payment from the person causing the damage. Cost will be the value as determined in the City Tree Inventory, if the tree is not part of an inventory the cost will equal \$200/inch measured at diameter breast height or 4.5 feet from ground level.

#### **Sec. 6-4-1312 Appeal from Determinations or Orders.**

Any person who receives a determination or order under this Chapter from the Staff Forester or ~~Board of Public Works or the Parks and Recreation Board or its designee~~ and objects to all or any part thereof shall have the right to appeal such determination or order, subject to the provisions of Chapter 68, Wis. Stats., to the ~~Common Council~~ Board of Public Works and/or Parks & Recreation Board or its designee within seven (7) days of receipt of the order ~~and the Common Council. The Board of Public Works and/or Parks & Recreation Board or its designee~~ shall hear such appeal within ~~thirty (30)~~ forty-five (45) days of receipt of written notice of the appeal. After such hearing, the Common Council may reverse, affirm or modify the order or determination appealed from and the grounds for its decision shall be stated in writing. The Common Council shall, by letter, notify the party appealing the order or determination of its decision within ten (10) days after the hearing has been concluded. The Council shall file its written decision with the City Clerk.

#### **Sec. 6-4-1413 Adoption of State Statutes.**

Sections 27.09 and 86.03, Wis. Stats., are hereby adopted and incorporated herein by reference.  
*State Law Reference: Sections 27.09 and 86.03, Wis. Stats.*

**Sec. 6-4-14 Violations.**

Any person, firm or corporation violating any of the provisions of this Ordinance shall upon conviction thereof be subject to a forfeiture between fifty (\$50.00) and five hundred (\$500.00) dollars. Each day that such violation is not remedied, shall be considered a separate offense.

**Sec. 6-4-15 Emergencies.**

The Staff Forester, in the case of emergencies, such as windstorms, ice storms, insect/disease outbreaks or other disasters, may waive the requirements of this Ordinance so that private or public work to restore order in the City is in no way hindered.

**Sec. 6-4-16 Severability.**

Should any section, subsection, clause, or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance in whole or in any part thereof other than the part so declared to be invalid.

**Sec. 6-4-17 Arboricultural Standards.**

All work performed must be performed in compliance of accepted arboricultural standards.

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SECTION II. This Ordinance shall take effect and be in force from and after its passage and prior to publication although it will be published in due course.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

CITY OF ONALASKA

By: \_\_\_\_\_

Joe Chilsen, Mayor

By: \_\_\_\_\_

Caroline Burmaster, Clerk

PASSED:

APPROVED:

PUBLISHED:

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