

**REGULAR MEETING**  
**Board of Park Commissioners**  
Wednesday, March 6, 2013  
Rec Center  
2442 Sims Ave.  
Meeting Room  
6:30 p.m.

## **AGENDA**

***DISCUSSION AND POSSIBLE ACTION ON:***

1. Roll Call
2. Approval of the February 6, 2013 Minutes
3. Vision Triangle appeal at 2801 Sims Ave. (Mary Kirsch)
4. Director's Report
5. Adjournment

Meeting Rider

Any person who has special needs while attending this meeting or needing agenda materials for this meeting should contact the City Clerk as soon as possible to ensure a reasonable accommodation can be made. The City Clerk can be reached by telephone at (715) 346-1569, TDD # 346-1556 or by mail at 1515 Strongs Ave., Stevens Point, WI 54481.

Copies of ordinances, resolutions, reports and minutes of the committee meetings are on file at the office of the City Clerk for inspection during normal business hours from 7:30 a.m. to 4:00p.m.

### **SPECIAL NOTICE**

**Please take notice that a quorum of the City Council may attend this meeting.**

## Agenda Notes

3. The City Forester received a complaint about a cedar hedge blocking the view of oncoming traffic at the intersection of Sims Ave. and Minnesota Ave. (facing west on Sims looking south on Minnesota). Upon investigating the complaint, the City Forester observed that the cedar hedge was located in the vision triangle as defined by both Chapter 11 and Chapter 30 of City ordinances.

When either our department and/or the Inspection department receive a complaint, the first thing we do is make sure the placement of the object in the vision triangle still provides vehicular traffic an unobstructed view of cross traffic. We do this because; there are numerous intersections throughout the city where trees, light poles, utility poles, street signs, fences, electric service panels, etc. are located in the vision triangle. However unless the object in question creates an unobstructed view of cross traffic at the intersection, the city policy (both Forestry and Community Development) has been not to remove them

In this case, the cedar hedge because of its density does cause an obstructed view of cross traffic. That is why we issued the orders to have the hedge lowered as per City ordinance. The owner does not want to lower the hedge and wishes to appeal the orders.

As staff, after talking to the City Attorney I would recommend that the Commission not approve the appeal.

CITY OF STEVENS POINT  
PARKS, RECREATION, AND FORESTRY  
DEPARTMENT

NO:	2013-002
DATE:	1/14/2013

**REVISED**

**NOTICE OF PUBLIC NUISANCE**

TO:	Mary M Kirsch
	2801 Sims Avenue
	Stevens Point, WI 54481

OWNER OF PROPERTY AT:	2801 Sims Avenue
	Stevens Point Wisconsin 54481
PARCEL NO.:	2408-33-1005-02

Dear Property Owner:

Please be advised that  tree(s) located on your property described above (is) (are) in violation of Chapter 11, Section 6 (Public Nuisance), Revised Municipal Code of the City of Stevens Point. The tree(s) (is) (are) determined to be:

- |                                     |  |
|-------------------------------------|--|
| <input checked="" type="checkbox"/> | Interfering with use of a public area                      |
| <input type="checkbox"/>            | Infected with an infectious plant disease                  |
| <input type="checkbox"/>            | Endangering life, health, or safety of persons or property |
| <input type="checkbox"/>            | Infested with injurious insects                            |
| <input type="checkbox"/>            | Injurious to public improvements                           |
| <input type="checkbox"/>            | Dead   |

When stopped at Sims Avenue at Minnesota Avenue, visibility to the south is obstructed by white cedar hedge of northbound traffic on Minnesota Avenue. Both sidewalk and street traffic are obstructed. Cedar hedge is in vision triangle. (see attached sheets)

The ordinance further directs the City Forester to serve notice on the owner of the premises to abate such nuisances within/by  days after receipt of this notice.

The following abatement procedures are considered sufficient:

Please prune and/or remove white cedar hedge within vision triangle. Please maintain hedge to a height not to exceed 30 inches in the future if you keep the hedge. Please call me if you have any questions.

May share with:

Please arrange to have the above work completed within/by  days or the City will cause abatement of the nuisance and the cost thereof will be charged to the owner as directed by ordinance.

If you have any questions concerning this matter, please contact me at 2442 Sims Avenue or phone 346-1532.

Thank you for your cooperation.



Todd Ernster  
City Forester

(c) Top or make topping cuts on any public tree.

(d) Permit any toxic chemical, gas, smoke, oil, or other injurious substance to seep, drain, or be emptied upon or about any public tree or shrub. Except routine winter street maintenance by City Departments.

(e) Excavate any ditch, tunnel, or trench, or lay any drive, sidewalk or other impermeable surface within the tree protection zone of any public tree or shrub.

(f) Erect, alter, repair, raze, or excavate within the tree protection zone of any public tree or shrub without placing suitable guards approved by the city forester around such trees and shrubs which may be injured by such operations.

(g) Remove any guard, stake, or other device or material intended for the protection or support of any public tree or shrub.

(h) Place any earth fill, rock, trash, or other material within the tree protection zone of any public tree or shrub which may compact or prevent the entry of air and water to the root zone.

 **(2) Clear-vision triangle. No tree, shrub, hedge or other growth exceeding thirty (30) inches in height above street grade shall be permitted in any clear-vision triangle within the city.**

(3) Obstruction of Signs, Signals, Travel. All trees and shrubs located upon any public way or upon any private premises adjacent to the public way shall be kept trimmed so that the lowest projecting branches provide a clearance height of not less than sixteen(16) feet above the travel portion of a public street, and not less than eight (8) feet above the public sidewalk. The city forester may waive the provisions of this section for newly planted or naturally low-profile trees if he/she determines that they do not interfere with public travel, obstruct the light of any street light, obstruct the view of any traffic sign or signal, or endanger public safety.

(4) Any tree or shrub or part thereof found to be in violation of the provisions of subsection (2) and (3) of this section shall be declared to be a public nuisance and shall be subject to abatement as set forth in section 11.06(3) of this ordinance.

(a) A property owner receiving notice to abate a public nuisance as specified in subsection (4) of this section shall have the right to contest such taking by the city forester and shall have such rights as are provided in Chapter 32 of the Wisconsin statutes relating to the "taking of real property."

## 11.03 DEFINITIONS.

(1) The language in the text of this chapter shall be interpreted in accordance with the following rules of construction:

- (a) The singular number includes the plural number, and the plural the singular.
- (b) The word "shall" is mandatory; the word "may" is permissive.
- (c) The masculine gender includes the feminine and neuter.

(2) In this chapter, unless the context clearly requires otherwise, the following words and phrases shall be defined as follows:

(a) "City" is the City of Stevens Point, Wisconsin.

(b) "City forester" shall mean the person designated by the city under section 11.05 of this chapter, or his/her duly authorized representative designated to perform inspection or otherwise enforce the provisions of this chapter.

 (c) **"Clear-vision triangle" shall mean a triangle shaped zone formed by the existing or proposed curb lines of two or more intersecting streets, roads, or alleys and a third line connecting said curb lines at a distance of thirty (30) feet in each direction from the point of curb line intersection, in order to provide vehicular traffic an unobstructed view of cross traffic at intersections.**

(d) "Commission" shall mean the board of park commissioners of the City of Stevens Point as constituted under the Municipal Code of the City of Stevens Point.

(e) "Maintenance and protection" shall include all operations of trimming, pruning, spraying, injecting, fertilizing, treating, bracing, cabling and cutting any tree or shrub above or below ground.

(f) "Permit" shall mean written permission from the city forester to perform maintenance and protection on any public tree or shrub, or do construction (as defined in section 11.09) in the vicinity of any public tree or shrub. Any permit may include specifications which shall be complied with, and any special provisions applicable to the purpose of the permit.

(g) "Person" shall mean any individual, firm, partnership, association, corporation or government entity.

(b) Permit Form, Issuance, Renewal, Compliance, Inspection. Standing Permits shall be issued by the city forester on the standard form for this purpose. The permit shall specify the forestry specifications and any special conditions or requirements to be satisfied in connection with the work. Permits issued under this section shall be valid from January 1 through December 31 and shall be automatically renewed for a like term. The city forester shall inspect the work and worksite from time to time to ensure compliance with the terms of the permit.

11.10 COST OF PLANTING, REMOVAL, MAINTENANCE, AND PROTECTION OF PUBLIC TREES AND SHRUBS. The entire cost of planting, removal, maintenance, and protection of trees and shrubs in all public areas of the city when performed by department employees or their contractors at the direction of the city forester, shall be borne by the city out of the department budgets, or from funds donated or otherwise acquired for this purpose. When a private party other than the city plants, removes, maintains, or protects public trees or shrubs pursuant to Section 11.08(1) of this ordinance, said party shall incur all expenses connected therewith.

→ 11.11 APPEAL FROM ORDER OF THE CITY FORESTER ←

(1) A person who receives an order from the city forester and objects to all or part thereof may, within ten(10) days of receipt of order, notify the City Forester in writing of the nature of the objection and request a conference with the City Forester and Director of Parks & Recreational services. Th director of Parks & Recreational Services shall schedule such a conference within ten(10) days of receiving the request. If the person objecting to the order wishes to further appeal the results of the conference, that person may, within ten(10) days of the conference, make a written request to appeal the order by requesting a hearing before the Commission. The Commission shall schedule a hearing of the appeal within fifteen(15) days of receiving the appeal. Within ten(10) days of the hearing the commission shall notify the appellant of its decision in writing. The commission may affirm, cancel, or modify the order, in its discretion, to best conform such order to the intent of this ordinance. The decision of the commission shall become final after it is reviewed by the Common Council.

(2) Notwithstanding anything to the contrary contained within ordinance, in the event the Director of Public Works indicates that his/her department is unable to comply with any provision of this ordinance he/she shall notify the Forester, who may issue a waiver from any provision of this ordinance. In the event a waiver is not granted, the Director of Public Works may appeal to the Chairperson of Board of Public Works.

# CHAPTER 30

## BUILDING CODE

Sec. 30.04

proportions, finish materials, and the size of the garage in comparison to the square footage of the residential structure.

### (3) Fences.



A. No fence or accessory structure or planting shall rise over two (2) feet in height above the level of the public sidewalk or land surface within twenty (20) feet of any corner so as to interfere with traffic visibility across from any corner. Fences, walls, or shrub plantings shall not be permitted within ten (10) feet of any street or alley right-of-way in such manner as to interfere with traffic visibility. In no case shall a fence, wall or planting with less than 50 percent of its surface uniformly open and unobstructed in any area exceed three feet in height in that part of a yard within ten feet of a street or alley right-of-way.

B. A maximum fence height of ten (10') feet in the rear yard. On corner lots, a maximum six (6') foot high fence in the rear yard street setback shall be permitted with at least a two (2') foot setback along the portion of the rear yard adjoining the street. Clear vision triangles along streets, alleys, and driveways must be adhered to.

C. Corner side yard, rear yard, and setback are defined in Chapter 23 of the Revised Municipal Code. Fences not prohibited above are permitted in a required side or front yard provided such fence or wall, other than a retaining wall, shall not be higher than six (6') feet.

D. No fences shall be constructed of materials that may be hazardous to children of tender years (including barbed wire, razor wire, electric fences).

E. Fences and walls must be sound and well maintained. Broken materials, peeling paint, rotted wood are not permitted. Use of scrap or salvaged materials or materials that are not uniform or homogenous are not allowed. The applicant may appeal to the council if there is a disagreement about the quality of the fence.

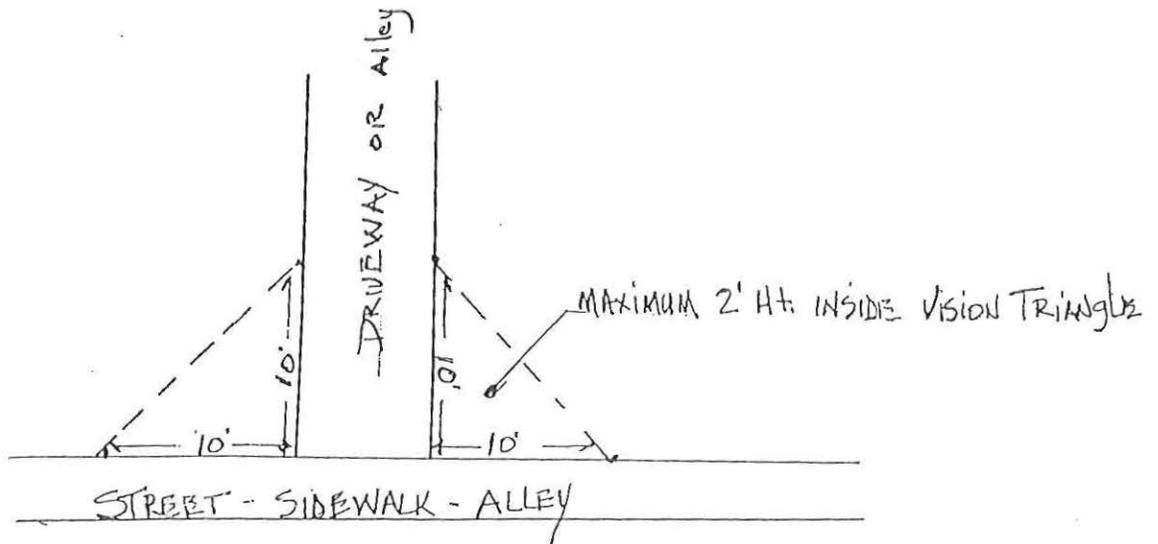
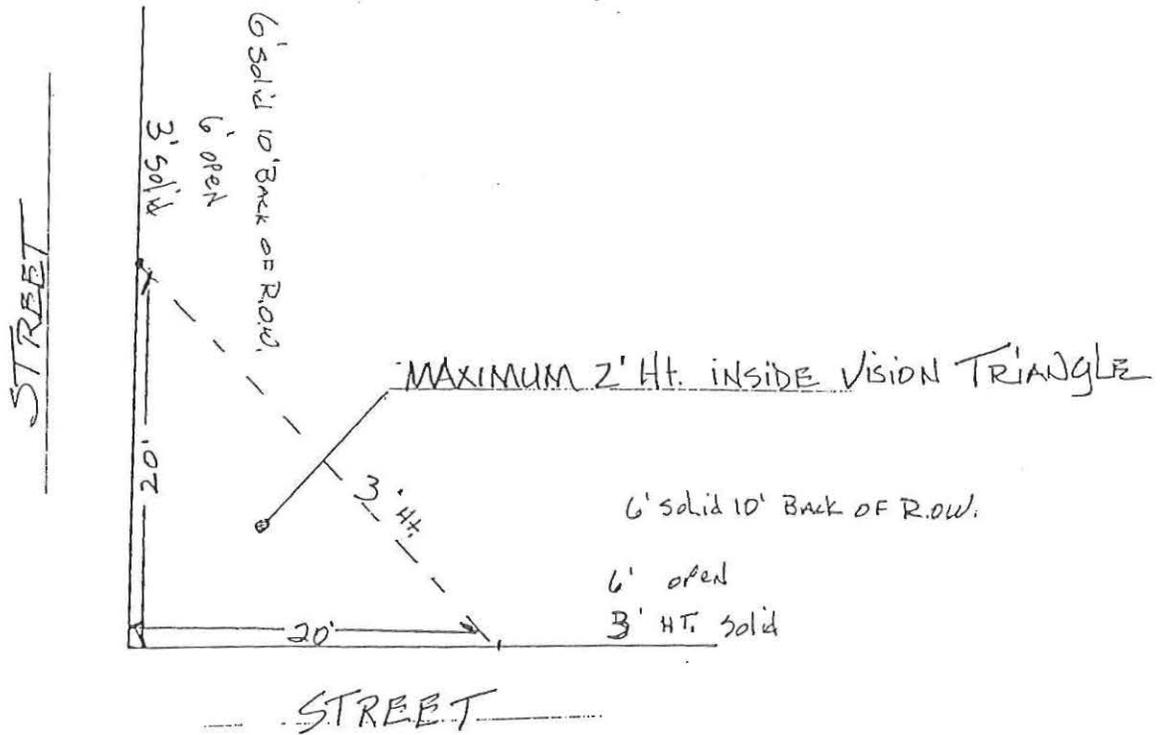
F. Existing fences shall be grandfathered with the exception of materials or conditions.

### 30.05 MISCELLANEOUS AND VIOLATIONS

(1) Violations. It shall be unlawful for any person to erect, use, occupy, or maintain any building or structure in violation of any provisions of this Code, or to violate any other provisions, or to cause, permit or suffer any such violations to be committed. Any person violating any of the provisions of this Chapter shall, upon conviction, be subject to a forfeiture of not less than One Dollar (\$1.00) or more than Two Hundred Dollars (\$200), together with the costs of prosecution and, in default of payment thereof, shall be imprisoned for a period of not less than one (1) day or more than six (6) months or until such forfeiture and costs are paid. It shall be the responsibility of the offender to abate the violation as

# CHAPTER 30

## CLEAR VISION TRIANGLES



✓ Todd Ernster, City Forester  
Cc: Tom Schrader, Parks Department

February 25, 2013

In response to the certified letter received February 23, 2013 requiring that I “prune/remove shrubs in the vision triangle” located on my property (Parcel No: 2408-33-1005-02), I am appealing the taking by the City Forester and have such right as provided in Chapter 11.11. Within ten days of receiving the February 23 letter, I hereby notify the City Forester in writing of my objection to the order. City Attorney Louis Molepske advised me on February 22, 2013, that the next step in the appeal process (the conference with the City Forester and Director of Parks & Recreational services) can be omitted since it had taken place previously.

Consider this letter as a “written request to appeal the order by requesting a hearing before the Commission. The Commission shall schedule a hearing of the appeal within fifteen (15) days of receiving the appeal. Within ten (10) days of the hearing the Commission shall notify the appellant of its decision in writing.” “The decision of the Commission shall become final after it is reviewed by the Common Council.”

Please advise me if there is/are additional step(s) I must take to appeal the order.

Sincerely,



Marcy Kirsch

2801 Sims Avenue

Stevens Point WI 54481

