

## TITLE 6

### PUBLIC WORKS

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### CHAPTER 1

#### Public Works

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#### **SEC. 6-1-1 STATUTORY PUBLIC WORKS AUTHORITY.**

Without limitation because of enumeration, the Town Board may:

- a) Acquire lands. Notwithstanding Sec. 60.10(2)(e), Wis. Stats., acquire lands to lay, construct, alter, extend or repair any highway, street or alley in the Town of Fond du Lac.
- b) Streets, Sewers and Water Mains. Provide for laying, constructing, altering, extending, replacing, removing or repairing any highway, street, alley, sanitary sewer, storm sewer or water main or other service pipes, under Section 62.16 (2) (d), Wis. Stats., in the Town.
- c) Sidewalks. Provide for construction, removal, replacement or repair of sidewalks under Sec. 66.0907, Wis. Stats.
- d) Lighting Highways. Provide for lighting for highways, as defined under Sec. 340.01(22), Wis. Stats., located in the Town.
- e) Lake Improvement. Provide for making improvements in any lake or waterway located in the Town.
- f) Gather at the site of a public works project that has been approved by the Board for the sole purpose of inspecting the work that has been completed, if notice has been given and under the circumstances described in Section 60.50 (6), Wis. Stats.

**SEC. 6-1-2 PAYMENT FOR PUBLIC WORKS; SPECIAL ASSESSMENTS.**

The Town Board may levy and collect special assessments and charges under Sec. 66.0701, Wis. Stats., and Title 3, Chapter 2, of this Code to pay for all or part of the cost of any public work or improvement. Special assessments may be paid under Sec. 66.0713, Wis. Stats. Reassessments shall be under Sec. 66.0731, Wis. Stats.

**SEC. 6-1-3 BURNING OR DEPOSIT OF RUBBISH ON HIGHWAY  
RIGHT-OF-WAYS PROHIBITED.**

It shall be unlawful for any person to throw or deposit any weeds, sod, brush, cans, glass, gravel, stones, boulders, machinery, garbage or other waste or rubbish in or on the right-of-way of any highway located in the Town, or to burn any material of any nature in or on the right-of-way of any such highway or road, and particularly the paved portions thereof, in the Town, except as specifically authorized by the Town Board.

## CHAPTER 2

### Laying Out and Construction of Town Highways and Roads

6-2-1	Application to Lay Out and Construct Highway
6-2-2	Restrictions on Laying Out Highways
6-2-3	Procedure After Application is Filed
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6-2-6	Order, Award and Recording
6-2-7	Damages
6-2-8	Appeals
6-2-9	Payment of Construction Expenses
6-2-10	Preliminary Inspection
6-2-11	Performance Bond
6-2-12	Roadway Specifications
6-2-13	Final Inspection

#### **SEC. 6-2-1 APPLICATION TO LAY OUT AND CONSTRUCT HIGHWAY.**

An application under this Chapter to lay out and construct a new Town highway, other than as part of to a new subdivision or plat, may be filed by six (6) or more resident freeholders of the Town. Said application must in writing and it may be delivered to any Supervisor or the Town Clerk. The application shall contain a complete description and a survey map of the property in question. New streets and roads in subdivisions and plats shall be constructed pursuant to the Town subdivision ordinance and this Chapter where it is not in conflict with the Town subdivision ordinance.

Cross-Reference: Title 14 and Subdivision and Land Division Code

#### **SEC. 6-2-2 RESTRICTIONS ON LAYING OUT HIGHWAYS.**

- a) No Town highway shall be laid out through or upon any cemetery without the consent of those having the control of the cemetery.
- b) No Town highway shall be laid through or upon any structure, yard or enclosure used for educational or charitable purposes.
- c) No Supervisor shall act in laying out, altering, widening or discontinuing any highway in which he/she may be personally interested.
- d) When the laying out of a highway would require the construction of a bridge costing more than One Thousand Dollars (\$1,000.00), exclusive of donations, the order of the Supervisors laying out such highway shall not be effective unless approved by the electors of the Town, and an estimate by the Wisconsin Department of Transportation shall be conclusive of the cost of such bridge for the purposes of this Section.
- e) Without the consent of the owner, no Town highway shall be laid out through or upon any

garden or orchard or any building or fixture used for trade or manufacture or any other building or fixture or the yard or enclosure necessary to the use thereof, when the damage thereby caused thereto, exclusive of the damage to the land, exceeds Three Hundred Dollars (\$300.00).

**SEC. 6-2-3 PROCEDURE AFTER APPLICATION IS FILED.**

- a) On application made pursuant to Sec. 6-2-1 above, the Town Board shall prepare a notice fixing therein a time and place at which they will meet and decide upon the application.
- b) The notice shall specify as near as practicable the highway proposed to be laid out, widened, altered or discontinued and the tracts of land through which the highway passes.
- c) If the application is for discontinuance, the notice shall specify the tracts of land abutting on the highway which will be benefited or injured by such discontinuance.
- d) When the description in the aggregate exceeds two hundred (200) words in length, the notice may state that such descriptions are contained in the application as provided in Sec. 80.02, Wis. Stats., and shall give the name and address of the Town Clerk to whom the application has been delivered.

**SEC. 6-2-4 DUTIES OF APPLICANTS AFTER APPLICATION IS FILED.**

- a) Applicants shall at least ten (10) days prior to date of hearing give notice by registered mail to all occupants and owners of record of lands through which the highway may pass.
- b) Applicants shall give notice to the Wisconsin Department of Natural Resources and to the County land conservation committee in each county through which the highway may pass, by registered mail.
- c) Applicants shall publish the notice as a Class 2 notice under Ch. 985 of the Wisconsin Statutes.

**SEC. 6-2-5 PROCEEDINGS AFTER NOTICE.**

- a) The Supervisors shall meet at the time and place stated in the notice pursuant to Sec. 6-2-3(a).
- b) The Supervisors are to be satisfied that all notices as required by this Chapter and the Laws of the State of Wisconsin have been complied with.
- c) The Supervisors shall personally examine the highway which is the subject of the application and shall hear any reason that may be offered for or against laying out, widening or altering the highway.
- d) The Supervisors shall, after complying with Subsections (a), (b) and (c) above, decide upon the application and shall grant or refuse the same as they deem best for the public good.
- e) The Supervisors may adjourn said hearing from time to time, not exceeding in all thirty (30) days from the time of the first meeting, giving public notice of the time and place of such adjournment and by filing forthwith of such adjournment in the office of the Town Clerk.

**SEC. 6-2-6 ORDER, AWARD AND RECORDING.**

- a) When Supervisors lay out, alter, widen or discontinue any highway, they shall make and sign an order therefor, incorporating therein a description of the highway and cause survey thereof to be made when necessary.
- b) Damages are to be awarded to landowner pursuant to Sec. 6-2-7 hereafter and Sections 80.09 and 80.10, Wis. Stats.
- c) The order and award of damage shall be filed and recorded in the office of the Town Clerk within ten (10) days after the date fixed by the notice or adjournment for deciding upon the application.
- d) If the Supervisors fail to file the order and award within ten (10) days, they shall be deemed to have decided against the application.
- e) A certified copy of the order shall be transmitted by the Town Clerk to the Fond du Lac County Highway Commissioner.

**SEC. 6-2-7 DAMAGES.**

- a) The applicant(s) shall secure a release of damages from all occupants and owners of record and file it with the Town Clerk. The damages sustained by any person upon whose land any highway be laid out, widened or altered shall be fixed by agreement signed by the owner and the Supervisors and be filed in the Town Clerk's office. Such agreement and every release of damages given shall bar any further claims for damages by the owner and all persons claiming under him. A land conveyance shall accompany the release of damages, which shall be properly recorded with the Fond du Lac County Register of Deeds.
- b) If any owner does not so agree with the Supervisors as to his/her damages or does not deliver to the Supervisors a written release of all claims for damages, the Supervisors shall, at the time of making the highway order, assess the damages and make a written award specifying the sum awarded by them to each owner. The award shall be signed by the Supervisors and be filed in the Town Clerk's Office with the order laying out, widening, altering or discontinuing the highway.

**SEC. 6-2-8 APPEALS.**

- a) Appeal From Highway Order shall be pursuant to Sec. 80.17, Wis. Stats.
- b) Appeal From Award of Damages by owner shall be pursuant to Sec. 80.24, Wis. Stats.

**SEC. 6-2-9 PAYMENT OF CONSTRUCTION EXPENSES.**

All expenses involved in the preparation, construction and dedication involved in highway construction under this Chapter shall be borne by the applicant(s).

**SEC. 6-2-10 PRELIMINARY INSPECTION.**

Prior to the design, preparation and construction of any roadway to be dedicated to the Town, the

applicant shall notify the Town Chairperson or Town Clerk. An on-site meeting will then be arranged to be attended by the Town Board, the Town Engineer and the applicant. Plans must be provided in order for the Town Engineer to check the design and the drainage.

#### **SEC. 6-2-11 PERFORMANCE BOND.**

At the option of the Town Board, the applicant(s) shall prepare the highway (grade, ditch, and gravel, etc.) one year and surface it the next year in order to further compact the roadbed. If so, the applicant(s) shall provide a bond or irrevocable letter of credit which would enable the Town to finish the road, in case of default by the applicant(s). The performance bond, irrevocable letter of credit, or cash escrow agreement shall be equal to the Town Board's or Town Engineer's estimated cost of the required improvements adjusted for inflation. If the required improvements are not complete within the eighteen (18) month period, all amounts held under the escrow agreement or performance bond shall be turned over and delivered to the Town and applied to the cost of the required improvements. Any balance remaining after such improvements have been made shall be returned to the owner or subdivider. The Town Board, at its option, may extend the bond period for any additional period not to exceed one (1) year; however, the initial bond shall be required to run one (1) year beyond the initial date of acceptance of improvements.

#### **SEC. 6-2-12 ROADWAY SPECIFICATIONS.**

The road construction specifications for plats prescribed in Title 14 shall be applicable for both new roads ordered constructed under this Chapter and for roads required as a condition of new plat approval.

#### **SEC. 6-2-13 FINAL INSPECTION.**

Upon completion of the proposed highway, the Town Engineer will proceed to make final inspection, accepting or rejecting road as the case may be. After all of the provisions of this Chapter have been complied with, the roadway or easement will be inspected by Town officials and, at that time, proof will be made by presentation of lien waivers or paid bills that all work that has been done has been paid for or arrangements have been made for the payment by the subdivider. If the road is rejected, corrections shall be made as required by Town Board upon the Town Engineer's recommendation, before final inspection can then be made again. If final acceptance is then made, the owner or owners shall turn over to the Town the deed of all land necessary for the road as previously mentioned.

## CHAPTER 3

### Road Excavations; Trees

- 6-3-1 Excavations of Streets, Alleys, Public Ways and Roads
- 6-3-2 Regulations Governing Excavations and Openings
- 6-3-3 Trees and Shrubbery Obstructing View at Intersection or View of Traffic Signs; Tree Removal; Fences
- 6-3-4 Injury to Trees and Shrubs Prohibited
- 6-3-5 Deposit of Rubbish and Stones on Highway Right-of-Way Prohibited
- 6-3-6 Placement of Rural Mailboxes
- 6-3-7 Mailbox Replacement

#### SEC. 6-3-1 EXCAVATIONS OF STREETS, ALLEYS, PUBLIC WAYS AND ROADS.

a) **Permit Required.**

- 1) No person or entity, their agents or employees or contractors, shall make or cause to be made any opening, excavation or boring in or under any public street, road, alley, way, ground, sidewalk or Town-owned easement, or fill or alter any culvert or construct or install additions or extensions to its existing facilities within the Town without a permit therefor from the Town Chairperson or Clerk, or their designee.
- 2) The utility or contractor shall submit a written request for a utility construction/street excavation permit and a plan of the proposed alteration, boring, extension or addition, showing its location and details of construction, including specified depth, method of excavation, open out or auguring, provisions of restoration and any other information the Town deems necessary for review and consideration. In being issued a permit the utility or contractor agrees to be bound by the regulations of this Section and Section 6-3-2.

b) **Fee.** The fee for an excavation or opening permit shall be in accordance with the Town Board's current fee schedule. The fee shall be paid to the Town Clerk, who shall issue a receipt therefor.

c) **Insurance Required.** A permit shall be issued only upon condition that the applicant submit to the Town satisfactory written evidence that applicant has in force and will maintain during the time the permit is in effect public liability insurance of not less than One Million Dollars (\$1,000,000.00) per one (1) person, One Million Dollars (\$1,000,000.00) for one (1) accident and property damage coverage of not less than One Million Dollars (\$1,000,000.00).

d) **Bond.**

- 1) Before a permit for excavating, boring or opening any street or public way may be issued, the applicant must sign a statement in that he will indemnify and save harmless the Town and its officers from all liability for accidents and damage caused by any of the work covered by his permit, and that he will fill up and place in good and safe condition all excavations and openings made in the street, and will replace and restore the pavement over any opening he/she may make as near as can be to the state and condition in which he/she found it, and keep and maintain the same in such condition, normal wear and tear excepted, to the satisfaction of the Town Board for a period of one (1) year, and that he/she

will pay all fines imposed upon him for any violation of any rule, regulation or ordinance governing street openings or drain laying adopted by the Board and will repair any damage done to existing improvements during the progress of the excavation in accordance with the ordinances, rules and regulations of the Town. Such statement shall also guarantee that if the Town shall elect to make the street repair, the person opening the street will pay all costs of making such repair and of maintaining the same for one (1) year.

- 2) Whenever the Board finds that any such work has become defective within one (1) year of the date of completion, it shall give written notice thereof to the contractor stating the defect, the work to be done, the cost thereof and the period of time deemed by the Board to be reasonably necessary to complete said work. After receipt of such notice, the contractor or the surety must, within the time specified, repair the defect or indemnify the Town for the cost of doing the work as set forth in the notice.

### **SEC. 6-3-2 REGULATIONS GOVERNING EXCAVATIONS AND OPENINGS.**

- a) **Frozen Ground.** No openings in the streets, alleys, sidewalks or public ways shall be permitted when the ground is frozen except where it is deemed necessary by the Town Chairperson or Town Clerk, or their designee.
- b) **Removal of Paving.** In any opening or excavation, all paving materials shall be removed with the least possible loss of or injury to surfacing materials and together with the excavated materials from the opening shall be placed so as to cause the least practicable inconvenience to the public and permit free flow of water along gutters.
- c) **Protection of Public.**
  - 1) Every opening and excavation shall be enclosed with sufficient barriers. Sufficient warning lights shall be kept on from sunset to sunrise. Such lights shall be spaced so as to give adequate warning of the existence of the opening and of piled excavated materials. No open flame warning pots shall be used. Except by special permission from the Town, no trench shall be excavated more than two hundred fifty (250) feet in advance of pipe or conduit laying nor left unfilled more than five hundred (500) feet where pipe or conduit has been laid.
  - 2) All necessary precautions shall be taken to guard the public effectively from accidents or damage to persons or property through the period of the work. Each person making such opening shall be held liable for all damages, including costs incurred by the Town in defending any action brought against it for damages, as well as cost of any appeal, that may result from the neglect by such person or his employees of any necessary precaution against injury or damage to persons, vehicles or property of any kind.
- d) **Replacing Street Surface.** In opening any public street, alley, sidewalk, way, easement or ground, the paving materials, sand, gravel and earth or other material moved or penetrated and all surface monuments or hubs must be removed and replaced as nearly as possible in their original condition or position and the same relation to the remainder as before. Any excavated material which, in the opinion of the Town, is not suitable for refilling shall be replaced with approved backfill material. All rubbish shall be immediately removed. In refilling the opening, the earth must be laid in layers not more than six (6) inches in depth and each layer mechanically rammed or tamped to prevent after-settling. When the sides of the trench will not stand perpendicular, sheathing and braces must be used to prevent caving. No timber, bracing, lagging, sheathing or other lumber shall be left in any trench. Trenches shall be compacted to ninety-five percent (95%) Modified Procter, with test results from a certified soil tester filed



with the Town Engineer. The Town may elect to have the opening for any street or sidewalk repaired by the Town, in which case the cost of making such repair and of maintaining it for one (1) year shall be charged to the person making the street opening.

- e) **Notice.** It shall be the duty of the permittee to notify the Town Chairperson and/or Town Clerk, or the Town Engineer when requested by the Town, and all private individuals, firms and corporations affected by the work to be done at least twenty-four (24) hours before such work is to commence. The Clerk and/or Chairperson, or the Town Engineer when requested by the Town, shall also be notified at least four (4) hours prior to backfilling and/or restoring the surface.
- f) **Validity of Permit.** Unless the work shall be commenced within thirty (30) days of the issuance of the permit, the permit shall be void, and a new permit must be obtained and an additional fee charged. The Town may extend the time limitation for good cause. The utility or contractor shall have present at the site of construction and during the restoration period a copy of the construction plans and Town permit.
- g) **Backfilling.** Reconstruction shall be in accordance with the current cross-section or according to Town Standards, whichever is stricter. If the surface is not restored as required, the Town may restore the surface and bill the permittee therefor; the Town shall perform such work and bill the cost thereof to the permittee.
- h) **Emergency Excavation.** In the event of an emergency, any person, firm or corporation, owning or controlling any sewer, gas main, water main, conduit or other utility in or under any public street, alley, easement, way or ground and his agents and employees may take immediate proper emergency measures to remedy dangerous conditions for the protection of property, life, health or safety without obtaining an excavation permit, provided that such person, firm or corporation shall apply for an excavation permit not later than the next business day.
- i) **Excavation in New Streets Limited.** Whenever the Town Board determines to provide for the permanent improvement or repaving of any street, such determination shall be made not less than thirty (30) days before the work of improvement or repaving shall begin. Immediately after such determination by the Board, the Town Engineer shall notify in writing each person, utility, Town department or other agency owning or controlling any sewer, water main, conduit or other utility in or under said street or any real property abutting said street, that all such excavation work in such street must be completed within ninety (90) days. After such permanent improvement or repaving, no permit shall be issued to open or excavate said street for a period of five (5) years after the date of improvement or repaving unless, in the opinion of the Board, an emergency exists which makes it absolutely essential that the permit be issued.
- j) **Exception.** The provisions of this Section shall not apply to excavation work done by Town employees or contractors performing work under contract with the Town except that the safety precautions under Subsection (c) hereof shall be complied with.

### **SEC. 6-3-3 TREES AND SHRUBBERY OBSTRUCTING VIEW AT INTERSECTION OR VIEW OF TRAFFIC SIGNS; TREE REMOVAL; FENCES.**

- a) **Obstruction of Intersections.**
  - 1) Purpose. No person shall maintain, plant or permit to remain on any private or public premises situated at the intersection of two (2) or more roads, streets or alleys in the Town any hedge, tree, shrub or other growth which may obstruct the view of the operator of any

motor vehicle or pedestrian approaching such intersection.

- 2) **Traffic Visibility.** On a corner parcel, no fence, wall, hedge, planting or structure shall be erected, placed, planted, or allowed to grow in such a manner as to obstruct vision between a height of two and one-half (2-1/2) feet and ten (10) feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner parcels and a line joining the points along said street lines twenty-five (25) feet from the point of intersection. In the case of arterial streets intersecting with other arterial streets or railways, the corner cutoff distances establishing the triangular vision clearance space shall be increased to fifty (50) feet.
- b) **Obstruction of Signs.** It is unlawful for any person to plant, cause to grow, allow to grow or maintain any trees, bushes, shrubbery or vegetation of any kind which is an obstruction to the clear and complete vision of any traffic sign in the Town. It shall be the duty of every owner of such tree, brush, shrubbery or vegetation to remove such obstruction.
- c) **Abatement Procedure.** 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 Town Clerk shall notify the property owner in writing, describing the conditions, stating the steps necessary to correct the conditions, and establishing a reasonable time within which the corrective steps shall be taken. In the event that effective steps are not taken within the time specified, the Town may abate these conditions to the extent necessary to assure compliance with the foregoing requirements, and the costs thereof shall be charged to the owner as a special charge pursuant to Sec. 66.0627, Wis. Stats.
- d) **Trees on and Adjacent to Highway.**
  - 1) **Removal of Fallen Trees.** If any tree falls from adjacent land into any highway, the owner or occupant of the land shall immediately remove the tree from the highway. If the tree is not removed by the property owner following notice from the Town, the Town may remove from any highway any fallen tree or trees therein and charge the cost thereof to the property owner pursuant to Sec. 66.0627, Wis. Stats.
  - 2) **Planting Trees and Shrubs in Highway.** Any person owning or occupying land adjoining any highway may, with the approval of the Board, plant, cultivate and maintain trees, shrubs or hedges on the side of the highway continuous to and within ten (10) feet of his land. Such trees, shrubs or hedges shall be cut or removed only by the owner or occupant of the abutting land or by the public authority having control of the highway.
- e) **Cutting or Injuring Trees on Highway.** No person shall cut down, break, girdle, bruise the bark or in any other manner injure any public or private trees, shrubs or hedges growing within the highway, except as the owner thereof or the public authority maintaining the highway may cut down, trim and remove trees, shrubs and hedges for the purpose of and conducting to the benefit and improvement of the owner's land or the highway facility. When it is necessary for trees in a road right-of-way to be removed, the adjacent property owner shall have a right of first refusal to have the wood.
- f) **Fences.** No person shall build or reconstruct any fence within the thirty-three (33) foot public road right-of-way.

#### **SEC. 6-3-4 INJURY TO TREES AND SHRUBS PROHIBITED.**

- a) No person shall, without the consent of the owner in the case of a private tree or shrub, or without written permits from the Town Board in the case of a public tree or shrub, do or cause

to be done by others any of the following acts:

- 1) Secure, fasten or run any rope, wire sign, unprotected electrical installation or other device or material to, around or through a tree or shrub.
  - 2) Break, injure, mutilate, deface, kill or destroy any tree or shrub or permit any fire to burn where it will injure any tree or shrub.
  - 3) Permit any toxic chemical, gas, smoke, oil or other injurious substance to seep, drain or be emptied upon or about any tree or shrub, or place cement or other solid substance around the base of the same.
  - 4) Remove any guard, stake or other device or material intended for the protection of a public tree or shrub, or close or obstruct any open space about the base of a public tree or shrub designed to permit access of air, water and fertilizer.
  - 5) Attach any sign, poster, notice and other object on any tree, or fasten any guy wire, cable, rope, nails, screws or other device to any tree; except that the Town may tie temporary “no parking” signs to trees when necessary in conjunction with street improvement work, tree maintenance work or parades.
  - 6) Cause or encourage any fire or burning near or around any tree.
- b) 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.

**SEC. 6-3-5 DEPOSIT OF RUBBISH AND STONES ON HIGHWAY  
RIGHT-OF-WAY.**

It shall be unlawful for any person to throw or deposit any weeds, sod, brush, cans, glass, gravel, stones, boulders, machinery, garbage or other waste or rubbish in or on the right-of-way of any highway located in the Town, without written permission of the Town Board for temporary use.

**SEC. 6-3-6 PLACEMENT OF RURAL MAILBOXES.**

Rural mailboxes are prohibited on the right-of-way of all highways within the Town except as hereinafter provided:

- a) Mailboxes are approved only if they are of a construction or design approved by the United States Postal Service or previously approved by the Postmaster.
- b) Newspaper tubes are permitted only if provided by the newspaper and if they are of a construction or design that will not present a hazard to the public use of the right-of-way.
- c) A nameplate bearing the name and address number of the mailbox owner shall be permitted on each box.
- d) The support for the mailbox and newspaper tube shall adhere to the standards governing construction of mailbox supports as established by the Wisconsin Department of Transportation and shall not constitute a hazard to the public use of the right-of-way.

- e) Mailbox and newspaper tubes must be located on the side of the road required by the United States Postal Service and so that the door to the mailbox or protruding end of the newspaper tube is at least one (1) foot from the paved portion of the highway.
- f) The owner of each mailbox and/or newspaper tube shall, within twenty-four (24) hours after the end of each snowfall, remove all snow and ice which has fallen or accumulated in front of said mailbox and/or said newspaper tube and shall remove the snow for a distance of fifteen (15) feet to each side of said mailbox and/or newspaper tube.
- g) No other object of any kind shall be attached to the mailbox, newspaper tube or their supports. No other objects, including, but not limited to, landscaping boulders or fences may be placed on the right-of-way.
- h) This Section is not intended to and shall not be construed to create any affirmative duty on the part of the Town to locate and remove obstructing mailboxes.

**SEC. 6-3-7 MAILBOX REPLACEMENT.**

- a) The Town will replace mailboxes damaged on the Town road system where it has been determined that:
  - 1) Physical damage, which can be proven and documented by the owner or the Town, was caused by actual Town equipment contact;
  - 2) The mailbox is of standard design and placed in conformance with U.S. Post Office standards; and
  - 3) The existing installation, mailbox and mailbox post were in good repair.
- b) The Town of Fond du Lac will not replace mailboxes damaged on the Town road system where it has been determined that:
  - 1) The mailbox was not of standard design, or not placed in conformance with U.S. Post Office standards, even though it may have been damaged by Town equipment; or
  - 2) The mailbox, post and installation were not in good repair; or
  - 3) Evidence indicates that the weight of plowed snow resulted in the damage to the mailbox and/or post.
- (c) The replacement mailboxes by the Town shall be limited to a Twenty-five Dollar (\$25.00) payment. Special decorative mailboxes and/or posts will not be provided. If the owner wishes to install a decorative mailbox and/or post that meets standards, it shall be at the owner's expense.

## CHAPTER 4

### Driveways; Culverts

- 6-4-1 Culvert Requirements
- 6-4-2 Driveway and Culvert Location, Design and Construction Requirements

#### **SEC. 6-4-1 CULVERT REQUIREMENTS.**

No person shall construct any driveway or private road in a public right-of-way of the Town without installing a culvert in full compliance with this Section. Included within the scope of this requirement are commercial driveways.

#### **SEC. 6-4-2 DRIVEWAY AND CULVERT LOCATION, DESIGN AND CONSTRUCTION REQUIREMENTS.**

- a) **General Requirements.** The location, design and construction of driveways shall be in accordance with the following:
  - 1) **General Design.** Private driveways shall be of such width and so located that all of such driveways and their appurtenances are within the limits of the frontage abutting the street of the property served. Driveways shall not provide direct ingress or egress to or from any street intersection area and shall not encroach upon or occupy areas of the street right-of-way required for effective traffic control or for street signs or signals. A driveway shall be so located and constructed that vehicles approaching or using it shall have adequate sight distance along the street. Driveway approaches shall be at least ten (10) feet apart except by special permission from the Town Board, and driveways shall in all cases be placed wherever possible as not to interfere with utilities in place.
  - 2) **Island Area.** The island area in the street right-of-way between successive driveways or adjoining a driveway and between the highway shoulder and right-of-way shall constitute a restricted area and may be filled in and graded only as provided in Subsection (4).
  - 3) **Driveway Approach to Town Road.**
    - a. The apron from the center of the culvert to the road pavement must have a minimum of a three (3) feet to ten (10) feet taper on each side of the apron. Example: If the distance from the center of the culvert to the pavement is ten (10) feet, then the apron must be three (3) feet wider on each side than the width at the culvert.
    - b. The sides of the apron, at least to the culvert, should be beveled down to grade so as to have no abrupt surface that could damage a snow plow or create a hazard to any vehicle that should travel off the pavement.
    - c. No barricade, fence or guard that extends higher than the roadbed may be constructed in the area from the pavement to the center of the culvert.

- d. No driveway apron may be constructed of concrete without prior written approval of the Town Board. Such approval will be conditioned upon the applicant entering into a recordable Driveway Apron Agreement with the Town. The Driveway Apron Agreement will require the applicant to maintain the apron in such a manner that it remains at an elevation below the edges of the adjacent road at all times, and the Driveway Apron Agreement will further provide that if the Town removes all or part of the apron in connection with a construction project, or for any other reason, the Town will only be responsible for the replacement of the concrete driveway apron with a blacktop driveway apron. The Driveway Apron Agreement may include such further conditions as the Town Board deems necessary.
- 4) Restricted Areas. The restricted area between successive driveways may be filled in and graded only when the following requirements are complied with:
    - a. The filling or draining shall be to grades approved by the Town Engineer and, except where highway drainage is by means of curb and gutter, water drainage of the area shall be directed away from the street roadbed in a suitable manner.
    - b. Culvert extensions under the restricted area shall be of the same size and of equivalent acceptable material as the culvert under the driveway. Intermediate catch basins are required where the total culvert length is greater than three hundred (300) feet and/or where a bend or curve in the pipe is required.
    - c. Where no street side ditch separates the restricted area from the street roadbed, permanent provision may be required to separate the area from the street roadbed to prevent its use for driveway or parking purposes by construction of a border, curb, rail or posts as may be required by the Board.
  - 5) Relocation of Utilities. Any costs of relocating utilities shall be the responsibility of the property owner with approval of the Board necessary before any utility may be relocated and the driveway installed.
  - 6) Variances. Any of the above requirements may be varied by the Board in such instances where the peculiar nature of the property or the design of the street may make the rigid adherence to the above requirements impossible or impractical.
- b) **Special Requirements for Commercial and Industrial Driveways**. The following regulations are applicable to driveways serving commercial or industrial establishments:
    - 1) Width of Drive. No part of a private driveway located within the dedicated area of a public street shall, except as hereinafter provided, have a width greater than thirty (30) feet measured at right angles to the center line of said driveway, except as increased by permissible radii. In instances where the nature of the commercial or industrial activity or the physical characteristics of the land would require a driveway of greater width than herein specified, the Board in its discretion may permit a driveway of additional width.
    - 2) Angular Placement of Driveway. The angle between the center line of the driveway and the curb line or road edge shall not be less than 70 degrees.
  - c) **Special Requirements for Residential Driveways**. The following regulations are applicable to driveways serving residential property:

- 1) Width. Unless special permission is first received from the Board, or committee thereof, a residential single-type driveway shall be no greater than twenty-six (26) feet wide at the curb line or pavement edge and eighteen (18) feet wide at the outer or street edge of the sidewalk; residential double-type driveways shall be no greater than twenty-six (26) feet wide at the curb line and twenty-four (24) feet wide at the outer or street edge of the sidewalk.
- 2) Angular Placement. The angle between the center line of the driveway and the curb line or road edge shall not be less than 70 degrees.

**d) Prohibited Driveways and/or Filling.**

- 1) No person, firm or corporation shall place, construct, locate in, or cause to be placed, constructed or located in, any obstruction or structure within the limits of any public road, highway or street in the Town except as permitted by this Section. As used herein the word “structure” includes private driveways, a portion of which extends into any public road, highway or street, and which is in non-conformance with this Chapter.
- 2) No driveway shall be closer than twenty-five (25) feet to the extended street line at an intersection. At street intersections a driveway shall not provide direct ingress or egress to or from the street intersection area and shall not occupy areas of the roadway deemed necessary by the Town for effective traffic control or for highway signs or signals.
- 3) The grade of that portion of any private driveway located within the limits of any public road, highway or street shall be such as shall meet the grade of the existing public roadway at its edge and not cause an obstruction to the maintenance or clearing of such public roadway.
- 4) Filling of ditches and/or culverts located within a public right-of-way is prohibited without written approval from the Town.
- 5) The placement of lawn sprinkler pipes in a road right-of-way is prohibited.
- 6) Concrete driveway culvert abutments are prohibited unless expressly approved by the Board or its designee and a special written permit is issued therefor.

**e) Culvert Construction Standards.**

- 1) Size and Material. Culverts shall be installed prior to construction work being commenced on the property served. Minimum culvert size will be determined by the Town permit issuer, based upon the depth of the ditch and existing culverts upstream and downstream of the subject property. All culverts shall be constructed of galvanized steel and shall be of new manufacture, unless specifically excepted by the Town Engineer.
- 2) Gauge. The minimum wall thickness for the galvanized steel or plastic pipe culverts shall be in accordance with the following:

<u>Pipe Diameter</u>	<u>Gauge</u>
15 to 24 inch	16
30 to 36 inch	14
42 to 54 inch	12
60 to 72 inch	10
78 to 84 inch	8

The class of reinforced concrete pipe shall be in accordance with the following:

<u>Height of Cover</u> (in feet)	<u>Class of Pipe</u>
0-2	IV
2-3	III
3-6	II

- 3) Drainage. The culverts shall be placed in the ditchline at elevations that will assure proper drainage.
  - 4) Backfill Material. Material used for backfill shall be of a quality acceptable to the Town Engineer and shall be free from frozen lumps, wood, or other extraneous or perishable materials. The minimum cover, measured from the top of the pipe to the top of the subgrade, shall be six (6) inches.
  - 5) Erosion Control. Erosion control measures shall be implemented as necessary to control erosion, or as directed by the Town Engineer.
  - 6) Cost. The property owner shall install the culvert and be responsible for the cost thereof.
  - 7) Appeal. Persons may request a variance from the culvert requirements of this Section by filing a written appeals request with the Town Clerk, who shall place the matter as an agenda item for the Board's next meeting. The Board may only waive the requirement for a culvert upon a finding that unique physical characteristics of the location in question render a culvert unnecessary. The Town Engineer may be asked to render an opinion on the request.
  - 8) All culverts shall be provided with stone, concrete, or metal apron endwalls on both the upstream and downstream ends of the culvert. For purposes of this requirement, "apron endwalls" refer to walls on each end of a culvert that provide a transition from the culvert to the outlet channel.
- f) **Enforcement**. All costs incurred by the Town relating to the enforcement of this Chapter or in making the determinations or inspections necessary hereunder shall be paid by the property owner, including, but not limited to, Town administrative costs and engineers' and attorneys' fees. Such costs shall be payable from the permit fee established in Section 6-4-1(c)(3) above. If a property owner refuses to comply with the Chapter, the Town may install the culverts and charge back the cost or additional cost thereof as a special charge pursuant to Sec. 66.0627, Wis. Stats.



## **CHAPTER 5**

**[Reserved for Future Use]**

## Chapter 6

### Road Restoration

6-6-1	Mandatory Restoration Agreement
6-6-2	Restoration of Road
6-6-3	Security
6-6-4	Inspection
6-6-5	Indemnification
6-6-6	Enforcement
6-6-7	Severability
6-6-8	Interpretation
6-6-9	Definitions

#### **SEC. 6-6-1 MANDATORY RESTORATION AGREEMENT.**

Prior to the issuance of any permit the property owner whose property will be subject to the permit or any one owner if there are multiple owners, shall execute the Town's Road Restoration Agreement. Said Agreement shall contain a provision identifying any damages or deterioration to the Town road near and adjacent to the subject property prior to execution of the Agreement and issuance of the building permit. The property owner is responsible to reimburse the Town for its reasonable and actual costs incurred in both the pre-project road condition survey and the post-project road condition survey.

#### **SEC. 6-6-2 RESTORATION OF ROAD.**

The property owner hereby agrees to restore the Town road near and adjacent to the property to conditions that existed at the time of the Agreement or prior to the commencement of the work or activity resulting in damage. The road shall be restored on or before a date not later than six months from the date substantial completion of the work or damage occurs. The road shall be constructed in accordance with the standards contained in the Town's subdivision ordinance in effect at the time of the project, together with any other requirement reasonably imposed by the Town Board to restore the road to its condition existing prior to the work or improvement. For purposes of this Ordinance, references to "road" include the road's surface, shoulders, culverts, ditches and any other road-related improvements located in the road right-of-way.

#### **SEC. 6-6-3 SECURITY.**

In order to secure the obligations required by this Ordinance, the property owner shall submit to the Town a performance bond, a certificate of deposit, a letter of credit ("Security") in an amount determined by the Town Board to secure the cost of restoring the roads pursuant to this Ordinance. The Security shall be filed prior to the Town's approval of a certified survey map, plat, building permit, culvert permit or any other form of Town approval ("Local Approval") affecting a Town road. The Security shall provide that if the restoration has not been completed within 6 months,

the amount of the Security shall be paid to the Town and the Town shall have the authority to complete the necessary restoration work required by this Ordinance. Regardless of the amount of the Security, the property owner remains liable for the excess cost of the improvements over the amount of the Security. If the Security is deemed inadequate to fulfill the obligations of the property owner, the property owner is deemed to have granted to the Town authority to add the deficiency costs to the property owner's real estate bill as a special charge. By seeking a Local Approval the property owner is deemed to have waived any statutory notices that may constitute a precondition to the imposition of a special charge against the property owner's real estate tax bill.

**SEC. 6-6-4 INSPECTION.**

At such time as there is substantial completion of the project or any other activity causing damage, the property owner shall contact the Town Clerk who shall have the Town road inspector or individual or organization designated by the Town Board inspect the town road near and adjacent to the subject property and compare the condition to that itemized on the restoration agreement (if applicable) and determine what, if any, restoration is required. It shall not be the obligation of the Town to prove that any damage to the road was actually caused by contractors/suppliers or others affiliated with the property owner's project or activity.

**SEC. 6-6-5 INDEMNIFICATION.**

The property owner shall hold harmless, indemnify, defend, pay costs of defense, and pay any and all claims or judgments which may hereafter accrue against the Town or the Town Board and its employees, agents, and insurers, to the extent that such are incurred as a result of any damage to the Town roads caused by the use of the Town roads by the property owner, or its successors and assigns, agents, contractors, subcontractors and material suppliers.

**SEC. 6-6-6 ENFORCEMENT.**

The Town Board shall have the authority to institute the appropriate action or proceedings to prevent, restrain, correct or abate a violation of this Ordinance. Enforcement remedies created by this Ordinance are cumulative and shall be in addition to all other remedies available under law. Any person who violates any provision of this Ordinance shall, upon conviction, be fined not less than \$500 nor more than \$1,000, for each offense, together with the costs of prosecution. Each day that a violation continues shall be considered a separate offense.

**SEC. 6-6-7 SEVERABILITY.**

If any provision of this Ordinance is invalid or unconstitutional, or if the application of this Ordinance to any person or circumstance is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the provisions or applications of this Ordinance that can be given effect without the invalid or unconstitutional provision or application.

**SEC. 6-6-8 INTERPRETATION.**

The provisions of this Ordinance shall be considered minimum requirements. Where the provisions of this Ordinance impose greater restrictions than any statute, other regulation or ordinance, the provisions of this Ordinance shall prevail. Where the provisions of any statute, other regulation or ordinance impose greater restrictions than the provisions of this Ordinance, the provisions of such statute, other regulation or ordinance shall prevail.

**SEC. 6-6-9 DEFINITIONS.**

- a) **Work Substantially Completed.** Completion of construction to a point where the improvement can be occupied, final yard grading and driveway, parking and walkway surfacing is complete and final exterior, interior and flooring surfaces are complete.
- b) **Near and Adjacent.** Roadway adjoining a property subject to a building permit and 100 yards in either direction from the driveway servicing the project.
- c) **Property Owner.** All references to the property owner include the property owner's successors and assigns or its employees, agents, contractors, subcontractors and material suppliers and their respective transport providers and milk haulers.

## CHAPTER 7

### Utility Location

6-7-1	Purpose
6-7-2	Authority
6-7-3	Definitions
6-7-4	Establishment of Permit
6-7-5	Application for Permit
6-7-6	Facility Separation
6-7-7	Administration of Permit
6-7-8	Indemnification
6-7-9	Enforcement

#### **SEC. 6-7-1 PURPOSE.**

The purpose of this Ordinance is to create a permitting and regulatory scheme for the construction and installation of facilities used to furnish or distribute heat, light, water, sanitary sewer service, power, telephone service, internet service, or natural gas across or within Town road right-of-way.

#### **SEC. 6-7-2 AUTHORITY.**

This Ordinance is adopted pursuant to Wis. Stat. §§ 86.16, 182.017, 66.0831, and pursuant to the Town's police powers.

#### **SEC. 6-7-3 DEFINITIONS.** For purposes of this Ordinance, the following definitions apply:

- (a) "Person" shall mean all individuals, partnerships, associations, and bodies politic or corporate.
- (b) "Facilities" shall mean any pipes, lines, or other infrastructure used to furnish or distribute heat, light, water, sanitary sewer service, power, telephone service, internet service, or natural gas across or within Town road right of way.

#### **SEC. 6-7-4 ESTABLISHMENT OF PERMIT.**

No Person may construct or install Facilities across or within any Town road right-of-way without a Facility Location Permit issued by the Town Board.

#### **SEC. 6-7-5 APPLICATION FOR PERMIT.**

Any Person seeking a Facility Location Permit shall submit an application to the Town Board that shall contain, at a minimum, the following information:

- (a) The applicant's name, address, and contact information.

- (b) A written description of the proposed Facilities.
- (c) The location of the proposed Facilities.
- (d) The location of all existing Facilities.
- (e) The vertical and horizontal distance between the proposed Facilities and all existing Facilities.
- (f) Any other information requested by the Town Board.

**SEC. 6-7-6 FACILITY SEPARATION.**

All proposed Facilities shall be set back from existing Facilities that were installed by the Town or a Town Sanitary District a minimum horizontal distance of eight feet and a minimum vertical distance of eighteen inches, unless lesser setbacks are approved by the Town Board in its sole discretion.

**SEC. 6-7-7 ADMINISTRATION OF PERMIT.**

Facility Location Permits shall be issued by the Town Board unless the Town Board has delegated such authority to a Town official. In either event, no Facility Location Permit will be issued until the Town first submits the application to all affected Town utility districts for review and recommendation. A Facility Location Permit may be approved subject to such conditions established by the Town Board.

**SEC. 6-7-8 INDEMNIFICATION.**

All Facility Location Permit holders shall defend, indemnify, and hold harmless the Town, all Town sanitary and utility districts, and their respective officers, employees, agents, and insurers harmless of and from all actions of any nature whatsoever that arise out of or are connected with any work done by the applicant pursuant to a Facility Location Permit.

**SEC. 6-7-9 ENFORCEMENT.**

Any Person who violates this Ordinance shall be subject to forfeitures in an amount of not less than \$200 nor more than \$500 for each offense. For purposes of determining forfeitures under this Ordinance, each day an offense continues constitutes a separate offense. In addition to forfeitures, the Town may seek injunctive relief, abatement orders, and other equitable relief as the Town deems necessary to enforce this Ordinance. The Town shall also be awarded cost of prosecution, including reasonable attorneys' fees, in the event of a violation.