

CHAPTER 8
TOWN HIGHWAYS

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8.01 PURPOSE. The Town Board of the Town of Delavan, Walworth County, Wisconsin, does hereby find, determine and ordain that in order to promote the public safety, general welfare and convenience, it is necessary that certain requirements be established and followed in the creation of new highways in the Town of Delavan; so that in the opinion of the Town Board, the public will not be negatively affected by the action of the Town Board accepting said road.

Established April 17, 2001

8.02 WORDS AND PHRASES DEFINED.

(1) DEFINITIONS. In Chapter 8 of the Municipal Code of the Town of Delavan, Walworth County, Wisconsin, the following words and phrases have the designated meaning unless a different meaning is expressly provided or the context clearly indicates a different meaning:

(a) APPROACH shall mean that portion of road extending 100 feet on each side of a culvert or bridge.

(b) BASE COURSE shall mean the supporting part of a road or road bottom.

(c) DRAINAGE shall mean to make gradually dry, by trenches, channels, culverts, etc.

(d) GRADE shall mean the rate of ascent or descent of a road.

(e) HIGHWAY as defined in Sec. 340.01, Wisconsin Statutes.

(f) PRIVATE ROAD or DRIVEWAY as defined in Sec. 340.01, Wisconsin Statutes.

(g) RESERVIORS shall mean Detention areas created by dikes, floodwalls, berms, etc.

(h) ROAD BED shall mean the whole material laid in place and ready for travel.

(i) ROADWAY as defined in Sec. 340.01, Wisconsin Statutes.

(j) SURFACE COVER shall mean the top of a roadway or traffic course.

(k) SMALL POTHOLE shall mean a break in the improved road surface that can be filled by approximately one hundred pounds of hot mix, cold mix, or gravel, or a combination thereof.

(l) INTERMITTENT SPACING shall be not closer than fifty yards.

Established April 17, 2001

8.03 APPLICATION REQUIRED. Individual homeowners or owners of land abutting on that part of a highway sought to be created or altered, shall make application in writing to the Town Board, giving the location and description of the proposed highway. In the event of multiple ownership, 51% of the abutting owner's signatures shall be required. Said application may be delivered to any supervisor or to the Town Clerk. Upon receipt of the application, the Town Board will proceed to examine the proposed route of the highway. If approval is received, then the individual or group of individual homeowners may proceed to build the highway, under the supervision of the Town Board or duly appointed representative.

Established April 17, 2001

8.04 MINIMUM STANDARDS. The following are the standards set by the Town Board for the construction of any proposed highway, in compliance with good practice, general construction, and safety, as follows:

(1) HIGHWAY. The minimum width for any highway shall be not less than 66 feet.

(2) GRADE. The establishment of a grade will be provided by the Town Board or duly appointed representative.

(3) DITCHING. Ditching of roadway is required and must have appropriate elevation to provide for the removal of accumulated water. Where it becomes necessary to make a lateral trench or create a reservoir leading from a main ditch, then the additional land necessary for the removal of accumulated water must be provided and may be required to be conveyed to the Town, along with the necessary land for the highway. The additional land conveyed to the Town for drainage will be under the supervision of the Town Board at all times.

(4) BASE COURSE. The base course must be of a quality and composition deemed appropriate and suitable by the Town for the location. At a minimum, the base course shall be ten inches of crushed packing gravel.

(5) SURFACE COURSE. The surface course shall consist of three and on-half inches bituminous concrete pavement consisting of a 2" base course and 1½" surface course.

(6) SEEDING. In addition to the above requirements, the subdivider or developer shall seed the roadsides according to good engineering practice.

(7) SURVEY. The applicant shall furnish the Town with a survey by a licensed surveyor, showing the centerline, right-of-way lines, section lines, section corner monuments and any encroachments within the right-of-way for any proposed highway.

(8) EROSION PREVENTION. When the permanent rural highway section shave been approved by the Town Board, the subdivider or petitioner shall finish grade all shoulders and road ditches, install all necessary culverts at intersections and, if required, surface ditch inverts to prevent erosion and sedimentation in accordance with plans and standard specifications approved by the Town Board. The subdivider or petitioner shall construct storm water drainage facilities adequate to serve the subdivision, which may include culverts crossing the proposed highway, catch basins and inlets, road ditches, open channels, water retention structures and settling basins. All such facilities shall be of adequate size and grade to hydraulically accommodate the maximum potential volumes of flow and shall be so designed as to prevent and control soil erosion and sedimentation and to present no hazards to life or property. Unpaved road ditches shall be shaped and seeded or sodded as grassed waterways.

(9) CUL-DE-SACS. On dead end roads, a turnaround, cul-de-sac or special "T" or "Y" design of sufficient size to accommodate school buses shall be provided which shall be graded, sloped and surfaced in the same manner as required for roadways. All cul-de-sac highways designed to have one end permanently closed, shall terminate in a minimum right-of-way radius of 95 feet, or other sized designs with Town Board approval.

(10) STREET INTERSECTIONS. Streets shall intersect each other at as nearly right angles as topography and other limiting factors of good design permit. Should the angle unavoidably be made less than a right angle, it should never be less than 75 degrees. The number of streets converging at one intersection shall be reduced to a minimum, preferably not more than two. Minor streets shall not necessarily continue across arterial or collector streets; but if the center lines of such minor streets approach the major streets from opposite sides within 300 feet of each other, measured along the centerline of the arterial or collector street, the location shall be so adjusted that the alignment across the major or collector street is continuous and a jog in the street alignment is avoided.

8.05 VARIANCES FROM DESIGN STANDARDS AND SPECIAL CIRCUMSTANCES. Where, in the judgment of the Town Board, it would be inappropriate to apply literally the provisions of Sec. 8.04 because exceptional circumstances or undue hardship would result, the Town Board may waive or modify any requirements to the extent deemed just and proper and the reasons for such modification shall be entered in the minutes of the Town Board. In those instances, the following shall apply unless determined to be inappropriate:

(1) **DEVATIONS REGULATED.** Any deviation from the requirements of Sec. 8.04 shall be guided by the design attached hereto.

(2) **SPECIAL ASSESSMENT AUTHORITY.** If the Town deems it necessary to construct a culvert or bridge, the Town may, in its discretion, construct same and specially assess the owner(s) of the property benefited, pursuant to Sec. 66.0703, Stats.

Established April 17, 2001

8.06 FINAL INSPECTION. Upon completion of a proposed highway, the Town shall make a final inspection to determine whether said highway shall be accepted. If the highway is rejected, all alterations required by the Town shall be made prior to acceptance. If a highway is accepted by the Town, the owner(s) shall convey such land to the Town as may be necessary to effect the terms of acceptance.

Established April 17, 2001

8.07 INSPECTIONS AND COSTS. The Town, in its discretion, may employ engineering, legal or other technical assistance it deems necessary to determine whether the requirements of this Chapter have been satisfied. Any costs incurred by the Town shall be paid by the owner(s) prior to acceptance.

Established April 17, 2001

8.08 OTHER COSTS. All costs incurred by the owner(s) of any highway shall be paid by said owner(s). Said Owner(s) shall provided proof of payment, including lien waivers where appropriate, for all contractors and materials, prior to final acceptance by the Town.

Established April 17, 2001

8.09 CONSTRUCTION PERMIT REQUIRED. Any construction, maintenance, or repair of facilities located within a highway, roadway, driveway or Town owned right of way thereto located in the Town of Delavan shall not be commenced without the issuance of a construction permit from the Town.

(1) PERMIT REQUIREMENTS. Construction permits shall be issued only upon satisfaction of the following:

(a) Completion of an application for a construction permit along with the submission of the applicable fee of \$100.00 unless construction includes boring, in which case the fees shall be \$300.00 ; and

(b) Posting with the Town Clerk, a bond or other surety in an amount of at least \$1000.00, but not to exceed one and one-half times the amount of the cost of the actual construction, maintenance, or repair, as that construction, maintenance or repair relates to highways, roadways, and driveways; and

(c) Approval of the construction permit application by the Town Board. No permit shall be issued sooner than one working day from the receipt of the application. The Town Board may, in its discretion, fully review projects prior to approving an application.

(2) EXCEPTIONS TO PERMIT REQUIREMENTS. No open cutting, trenching or boring of any highway, roadway or driveway in the Town of Delavan shall be allowed unless a construction permit has been approved, except that emergency repairs of utilities and the like may be made as needed. However, a permit must be obtained within five working days from the commencement of said emergency repairs.

(3) RETURN OF BOND UPON COMPLETION OF PROJECT. Upon completion of any project requiring a construction permit, the bond posted with the Town Clerk shall be returned forthwith upon the following:

(a) Notice to the Town Clerk from the permittee that the project has been completed; and

(b) Inspection by an official designated by the Town Board; and

(c) Approval of the Town Board.

(4) DAMAGES AND LOSS OF BOND. Any damage which results from any repair, maintenance, or construction on highways, roadways, private roads and driveways in the Town of Delavan shall be the responsibility of the party causing said damage. That party shall pay the costs of repairing the same, which amount shall be forfeited from the bond posted by the permittee with the Town Clerk.

(a) All repairs, maintenance or construction shall conform to Federal, State and County regulations, as well as specifications as adopted by the Town Board of the Town of Delavan.

(b) Any damage to highways, roadways, private roads or driveways or any repair, maintenance, or construction not in conformity with the foregoing shall be repaired by the Town of Delavan with the costs for the same exacted from the bond posted by the permittee.

(5) PROCEDURE FOR FORFEITURE OF BOND. In the event the Town Board elects under Sub.4 of this Section to repair damages and proceed against the bond of the permittee, the Town may do so only upon the following:

(a) Notice in writing to the permittee from the Town Clerk which shall contain substantially the following:

(1) The nature of the damage or non-conformity which has led to the Town's claim.

(2) The amount claimed by the Town.

(3) The permittee has the right to request in writing, a hearing before the Town Board to show cause, if any, why the Town should not forfeit any or all of the amount of the bond, which, if requested, said hearing shall be within thirty (30) days from the date of receipt of the written request.

(b) The Town shall not forfeit any part of a bond until and unless no hearing has been requested within thirty (30) days or after a hearing, the Town Board finds that the permittee has failed to properly show cause why his or her bond should not be forfeited.

(6) OTHER REMEDIES. Nothing in this Section shall be deemed to preclude other inspections or remedies provided for in the Municipal Code of the Town of Delavan, or as otherwise permitted by law.

(7) PENALTIES. Any persons commencing construction, repairs or maintenance as defined herein, without obtaining a construction permit, shall be ordered by the Town of Delavan to terminate its project forthwith and make proper application for a construction permit as defined herein, except that the party shall be required to remit an amount equal to two times the established application fee or may be subject to penalties as provided in Sec. 25.04 of the Municipal Code of the Town of Delavan.

Established April 17, 2001

8.10 ADOPTION OF STATE STATUTES. Chapters 80, 81 and 86, Stats., are hereby adopted and incorporated by reference as though set forth fully herein, as permitted by law. To the extent that the provisions of this Chapter are more restrictive than the aforestated statutes, the Town requirements shall preempt those standards established herein.

Established April 17, 2001

8.11 DRIVEWAYS.

(1) DRIVEWAYS REGULATED. Any new driveways, paving or repaving of existing driveways or any alterations to existing driveways, in which such driveways shall connect from private property to a public right-of-way, shall require the issuance of a permit by the Town of Delavan Highway Department Foreman prior to the beginning of such construction or alteration. The applicant, who may be the owner, agent, or contractor shall submit a location construction plan showing specifications including grade, slope, width, and length of the driveway and erosion control procedures. The plan shall be submitted to the Highway Department Foreman on a form approved by the Town Board. The Highway Department Foreman shall not issue a permit to an applicant unless the applicant's plan complies with the following specifications:

- (a) Minimum road surface width: 12 feet
- (b) Minimum width clearance: 24 feet
- (c) Minimum height clearance of trees, wires, etc: 18 feet
- (d) Maximum grade: 10 percent

(e) At least one 25 feet in length and 18 feet in width segment of road surface shall be provided for each 300 feet of driveway length to provide for the safe passage of meeting vehicles.

(f) To the extent practicable, the driveway within the area of the public right-of-way shall slope away from the public road at a minimum of 1 percent and a maximum of 5 percent to prevent erosion onto the public road.

(g) If the new driveway or alteration to existing driveway consists of cement or concrete, then the cement or concrete driveway surface shall not abut directly against the asphalt public roadway surface, but shall instead stop twelve (12) feet from the edge of the paved portion of the public roadway. New driveways or alterations to existing driveways, which consist of gravel or asphalt, or any material other than cement or concrete, shall abut directly against the asphalt public roadway surface.

(h) An adequate road bed base of suitable material to support the projected traffic and any requirements for culverts shall be determined by the Town in considering an application for driveway approval. If culverts are required, the recommended minimum diameter shall be 12 inches and minimum length shall be 20 feet. Illegal culverts will be removed at the landowner's expense.

(2) DRIVEWAY PLAN. A driveway plan shall be approved by the Highway Department Foreman before any construction permits can be issued.

(3) FEES. The fee for a driveway permit shall be one hundred (\$100.00) dollars.

(4) VARIANCE PROCEDURE. Any person who owns real property in the Town of Delavan, or their agent or contractor, may petition for a variance of the design or construction specifications herein, by filing a petition for such variance with the Town, on a form as supplied by the Town. The petition shall be heard by the Highway Committee, which shall grant or deny such petition. The Highway Committee may consider the following factors in determining whether to grant or deny such petition:

(a) Exceptional circumstances. There must be exceptional, extraordinary or unusual circumstances applying to the lot or parcel that do not apply generally to other properties in the Town and the granting of variance would not be of such a general or recurrent nature as to suggest that the driveway specifications herein should be changes.

(b) Absence of detriment. The variance will not create substantial detriment to any adjacent property and will not materially impair or be contrary to the purpose and spirit of this ordinance or the public interest.

(c) Unnecessary hardship. The applicant must demonstrate that literal enforcement of the provisions of this ordinance will result in unnecessary hardship to the applicant; and the hardship is due to special conditions unique to the property. No variance shall be granted solely on the basis of economic gain or loss. Self-imposed hardships will not be considered as adequate grounds for the granting of a variance.

(d) Safety to public or governmental personnel. The degree to which the variance will affect the safety of the public or of governmental personnel, or the ability of governmental personnel, especially police, fire and rescue personnel, to execute their duties.

Any persona aggrieved by the decision of the Highway Committee may appeal to the Town Board, within thirty days of any adverse decision. The Town Board, on review, may independently consider the same factors indicated herein as those considered by the Highway Committee.

Established April 17, 2001; revised August 17, 2004, Ordinance No. 254; Amended June 20, 2006, Ordinance No. 275

8.12 UNIFORM SYSTEM FOR NUMBERING PROPERTIES AND PRINCIPAL BUILDINGS. A uniform system of numbering properties and principal buildings as shown on the map identified by the title "Street and House Numbering System - Town of Delavan" which is filed in the office of the Town Clerk is adopted for use in the Town. This map and all explanatory matter thereon is adopted and made part of this Municipal Code.

1. ASSIGNMENT OF NUMBERS.

(a) All properties or parcels of land within the boundaries of the Town shall be identified by reference to the uniform numbering system adopted herein.

(b) All properties on the east side of north-south streets and all properties on the south side of east-west streets shall be assigned odd numbers. All properties on the west side of north-south streets and all properties on the north side of east-west streets shall be assigned even numbers.

(c) Each principal building shall bear the number assigned to the frontage on which the front entrance is located. In case a principal building is occupied by more than one business or family dwelling unit, each separate front entrance of such principal building shall bear a separate number.

(d) Numerals indicating the official numbers for each principal building or each front entrance to such building shall be posted in a manner as to be visible from the street on which the property is located. Such numerals may be obtained at cost from the Town Clerk as provided in Sub. (3).

2. ADMINISTRATION.

(a) The Town Chairperson or designee shall be responsible for maintaining the numbering system. In the performance of this responsibility, the Chairman shall be guided by the provisions of Sub. (2) of this section.

(b) The Town Clerk shall keep a record of all numbers assigned under this chapter.

(c) The Town Chairperson or designee shall issue to any property owner in the Town upon request a set of numerals for each principal building or separate front entrance to such building. In doing so, the Chairperson shall issue only numerals for the number assigned to such building under the provisions of this chapter. However, the Town Clerk may issue additional numerals in accordance with the official numbering system whenever a property has been subdivided, a new front entrance opened or undue hardship has been worked on any property owner.

8.13 HAUL ROADS.

(1) A haul road is any road that is used in the Town of Delavan to convey materials used in construction, hauling, or transportation of materials.

(2) A survey, boring or other engineering analysis of any Town road may be required to be performed prior to the utilization of any Town road as a haul road, the cost of which may be required to be paid by the person or entity seeking to use a Town road as a haul road.

(3) The person or entity causing damage to a Town road by suing said road as a haul road shall be required to restore said road to its former condition prior to it being used as a haul road. Additionally, such person or entity may be liable to the Town for three times the actual damages sustained by the Town, pursuant to Sec. 86.02, Stats.

Established April 17, 2001

8.14 MAINTENANCE OF PRIVATE ROADS.

(1) MAINTENANCE ACTIVITIES DEFINED. In this section, "maintenance activities" includes without limitation, snow plowing, salting, sanding, patching, surfacing, resurfacing and grading of roads.

(2) PURPOSE. In order to promote the health, safety and welfare of the citizens of the Town of Delavan, including assuring the adequate passage of emergency vehicles and access to public roads, the Town may, in its discretion, perform various maintenance activities on or for private roads in the Town are consistent with the public purpose doctrine. In exercising the discretion to perform maintenance activities to private roads herein, the Town may consider any relevant factors, including, but not limited to, imminent danger to the public, emergency weather or other conditions, cost, number of people affected or benefited, time to perform such activity, planning time required for such activity, and the ability or apparent ability of any persons or groups holding an interest in such private roads to act in concert to perform maintenance activities on their own.

(3) MAINTENANCE OF PRIVATE ROADS. The Town, in its discretion, may perform or cause to be performed various maintenance activities on any private roads in the Town, if the owners of those private roads refuse, neglect or in any way fail to perform such activities to the satisfaction of the Town. By this section, the Town shall not be required to perform any such maintenance activities, and shall afford any groups or individuals having an interest in any private roads a reasonable opportunity to perform such maintenance activities on their own first.

(4) TAXATION FOR MAINTENANCE OF PRIVATE ROADS.

(a) The Town Board shall levy and collect a tax against real property for the performance of maintenance activities on or for private roads, in the manner and subject to the limitations stated in Section 81.11 and 86.105, Wisconsin Statutes.

(b) Any maintenance activities performed on any private road by the Town shall be taxed to the owner(s) of such private road, based on the percentage of frontage feet owned by any such owner compared to the total length in feet of any such private road.

(c) The tax for the Town to perform any maintenance activities on a private road shall be determined and levied in the calendar year prior to the performance of any such services, subject to the requirements of subsection (a), except any maintenance activities performed in 2004 may be taxed in 2005. Any such tax shall be based on a good faith estimate of the cost necessary to perform maintenance activities on each private road herein, in the following calendar year, and such estimate shall be in the sole discretion of the Town Board, which shall, at a minimum, consider the opinion of the Town's engineering firm, or its designee. The Town Board may consider any other information which it considers relevant in determining the amount of this tax.

(d) The Town has adequate equipment to perform the necessary snowplowing, salting and sanding maintenance activities herein, and shall perform such activities herein itself and/or pursuant to any work sharing agreements in effect.

(5) INVALIDITY OF ANY PORTION OF ORDINANCE NOT TO AFFECT REMAINDER. If any portion of this ordinance is declared invalid by any Court of competent jurisdiction, the remaining portions of this ordinance not affected by such declaration shall remain in full force and effect.

Established April 17, 2001; revised August 17, 2004, Ordinance No. 253

8.15 PENALTY. Any person who shall violate any provision of this chapter or permit shall be subject to a penalty as provided in Section 25.04 of this Municipal Code.

Established April 17, 2001