CHAPTER 8
TOWN HIGHWAYS

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8.01 PURPOSE

1) 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

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

i. **APPROACH** shall mean that portion of road extending one-hundred (100') feet on each side of a culvert or bridge.
ii. **BASE COURSE** shall mean the supporting part of a road or road bottom.
iii. **DRAINAGE** shall mean to make gradually dry, by trenches, channels, culverts, etc.
iv. **GRADE** shall mean the rate of ascent or descent of a road.
v. **HIGHWAY** as defined in Section 340.01, Wisconsin Statutes.
vi. **PRIVATE ROAD or DRIVEWAY** as defined in Section 340.01, Wisconsin Statutes.
vii. **RESERVIORS** shall mean Detention areas created by dikes, floodwalls, berms, etc.
viii. **ROAD BED** shall mean the whole material laid in place and ready for travel.
ix. **ROADWAY** as defined in Section 340.01, Wisconsin Statutes.
x. **SURFACE COVER** shall mean the top of a roadway or traffic course.
xi. **SMALL POTHOLE** shall mean a break in the improved road surface that can be filled by approximately one hundred (100#) pounds of hot mix, cold mix, or gravel, or a combination thereof.

xii. **INTERMITTENT SPACING** shall be not closer than fifty (50) yards.

Established April 17, 2001

8.03 APPLICATION REQUIRED

1) 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 multiple ownership; six (6) or more resident free holders may apply to the Town Board to have a highway laid out, altered or discontinued. 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

1) 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:

(a) HIGHWAY

i. The minimum width for any highway shall be not less than sixty-six (66') feet.

(b) GRADE

i. The establishment of a grade will be provided by the Town Board or duly appointed representative.

(c) DITCHING

i. 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.

(d) BASE COURSE

i. 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 (10”) inches of crushed packing gravel.

(e) SURFACE COURSE

i. The surface course shall consist of four inches (4”) bituminous concrete pavement consisting of a two & 1/4 inch (2.25”) 3LT 58-28 S lower layer and a one & 3/4 inch (1.75”) 4LT 58-28 S upper layer.

(f) SEEDING

i. In addition to the above requirements, the subdivider or developer shall seed the roadsides according to good engineering practice.

(g) SURVEY

i. 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.

2) EROSION PREVENTION

(a) When the permanent rural highway section(s) have 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 sod as grassed waterways.

3) CUL-DE-SACS

(a) 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 (1) end permanently closed, shall terminate in a minimum right-of-way radius of ninety-five (95') feet, or other sized designs with Town Board approval.

4) STREET INTERSECTIONS

(a) 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 seventy-five (75°) degrees. The number of streets converging at one (1) intersection shall be reduced to a minimum, preferably not more than two (2). 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 three-hundred (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.

5) DEDICATION OF EXISTING PRIVATE ROADS

The following are the standards set by the Town Board for the improvement of an existing private toad constructed prior to 1995 proposed for dedication to and acceptance by the Town. All roads shall meet the Design Standards as shown in Appendix B of the Town Land Division Ordinance as adopted by the Town Board. The following variances to the Design Standards may be considered by the Town for dedication of private roads to the public:

(a) WIDTH OF RIGHT OF WAY

i. The minimum right of way width for minor residential streets shall be not less than forty-nine and on-half (49.5) feet.

ii. All pavement and road ditches must be contained within the road right-of-way.

(b) BASE COURSE

i. The base course must be of a quality and composition deemed appropriate and suitable by the Town Engineer of the location.

ii. The composition and thickness of the base course and surface course shall be determined by sample borings at such location or locations determined by the Town Engineer at the expense of the dedicating party(ies).

iii. The base course shall consist of not less that eight (8) inches of aggregate material.

(c) SURFACE COURSE

i. The surface course of pavement shall be not less than sixteen (16) feet in width.

ii. The surface course shall consist of hot mix asphalt not less than three (3) inches thick as determined by sample borings in paragraph (b)ii above.

iii. Existing road pavement shall have a Pavement Surface Evaluation and Rating (PASER Rating) of net less than seven (7) as determined by the Town.

iv. Dead end roads shall have a cul de sac or "Tee" at the end of the road adequate for turnaround of municipal and emergency vehicles.

(d) DRAINAGE

i. The roadway drainage system must be deemed adequate and suitable by the Town Engineer.

ii. The road shall have ditches with a depth of not less than 12-inches.

iii. The road shall have appropriate cross culverts and driveway culverts for adequate drainage.

6) Any improvements to a private road proposed for dedication to the Town required to meet the standards set forth in section 8.04 5) shall be completed prior to the acceptance of such dedication by the town board.

(a) The dedicating party(ies) shall arrange for and bear the entire cost of completing all such improvements.

(b) As an alternative to t he provisions of subsection(a), the dedicating party(ies) may authorize the Town to complete the work necessary to meet the standards set forth in 8.04 5) and consent to the imposition of a special assessment against all benefitted parcels for the cost of such improvements, including actual costs of construction, engineering and legal fees.

i. The Town shall not undertake to complete the required improvements unless the owner of all

benefitted parcels, as determined by the Town in the exercise if its sole discretion, consent in writing to the performance of the work by the Town and to the imposition of a special assessment against all benefitted parcels for the cost of the work.

ii. Any special assessment levied pursuant to the provisions of this section together with interest at a rate determined by the Town Board, may be paid in installments over a period determined by the Town Board, which shall not exceed ten (10) years.

Established April 17, 2001, Ordinance 372

8.05 VARIANCES FROM DESIGN STANDARDS AND SPECIAL CIRCUMSTANCES

1) Where, in the judgment of the Town Board, it would be inappropriate to apply literally the provisions of Section 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:

(a) DEVATIONS REGULATED

i. Any deviation from the requirements of Section 8.04 shall be guided by the design attached hereto.

(b) SPECIAL ASSESSMENT AUTHORITY

i. 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 Section 66.0703, Wisconsin Statutes.

Established April 17, 2001

8.06 FINAL INSPECTION

1) 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 affect the terms of acceptance.

Established April 17, 2001

8.07 INSPECTIONS AND COSTS

1) 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

1) All costs incurred by the owner(s) of any highway shall be paid by said owner(s). Said Owner(s) shall provide 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 ROAD EXCAVATIONS

1) PURPOSE

(a) The purpose of this section is to regulate placement, maintenance and removal of Transmission Facilities in public streets, roadways, rights of way or sidewalks by requiring permits to be obtained by any person, firm or corporation engaged in any enterprise placing Transmission Facilities within Town roads, roadways or sidewalks, whether nor not excavation is required, and requiring cash bonds to be posted prior to the commencement of any such work to ensure proper restoration of pavements, drainage facilities and roadways.

2) DEFINITIONS

(a) In this section, the following words and phrases have the designated meanings unless a different meaning is expressly provided or the context clearly indicates a different meaning:

(i) "Excavation" means any operation in which earth, rock or other material in or on the ground is moved, removed or otherwise displaced by means of any tools, equipment or explosives and includes grading, trenching, digging, ditching, drilling, auguring, boring, tunneling, scraping, cable or pipe plowing and driving and means any operation by which a structure or mass of material is wrecked, razed, rended, moved or removed.

(ii) "Regulated utility" means any public or quasi-public utility subject to regulation by the Wisconsin Public Service Commission.

(iii) "Transmission facilities" includes all pipes, pipelines, wires, cables, ducts, wirelines and associated facilities, whether underground or aboveground, regardless of the nature of their transmittants or of their in-service application. The term includes, but is not restricted to, utility facilities, communications and data facilities, drainage and water facilities and sewer systems. The term does not include a culvert or a fuel storage tank and a fuel storage pipeline, if the fuel storage pipeline does not cross a public right-of-way and if the tank and pipeline are located on property that is owned or leased by the user of the tank and pipeline.

(iv) "Pavement" means asphalt or concrete pavement.

(v) "Restore" means to return any areas disturbed during excavation as nearly as is reasonably possible to the condition existing prior to such excavation, including but not limited to, proper backfilling, pavement replacement, grading and seeding.

(vi) "Right-of-Way" means any public street, roadway, right –of-way or sidewalk.

3) PERMIT REQUIRED

(a) No person, firm, corporation or utility shall place Transmission Facilities in or make or cause to be made any excavation in, across or under any Right-of-Way, without first obtaining from the Town Board of its authorized representative, a written permit for making of such excavation.

(b) The application for the permit provided for in the preceding subsection shall state the purpose for which the permit is desired, the location of the proposed installation of Transmission Facilities or excavation, the work, and shall contain an agreement that the application will fully restore all areas disturbed during the process of installation.

(c) The application for the permit shall constitute an agreement that the applicant: will perform all work in compliance with applicable local, state and federal requirements; will not damage or otherwise interfere with existing facilities; or other transmission Facilities; and will pay all damages to persons or incurred by the Town in defending any action brought against it for damages, as well as the cost of any appeal, that may result from the conduct of the applicant, his agents, contractors, subcontractors, or employees in connection with the installation or excavation.

(d) The applicant shall also be required to submit a Certificate of Insurance indicating: (1) Public Liability insurance with a general liability aggregate limit of not less than Two Million Dollars ($2,000,000); and, (2) Workmen's Compensation and/or Employer's Liability insurance for all employees employed at the site of the excavation per Wisconsin Statutes. The applicant shall require each and every subcontractor to obtain and maintain similar policies with the same limits stipulated above.

(e) Prior to the issuance of a permit required pursuant to this section, the applicant shall pay to the Town the applicable fee as established by resolution of the Delavan Town Board from time to time.

(f) Notwithstanding any provision to the contrary contained herein, the provisions of sections 8.09 3)(d) and 8.09 9) shall not apply to any excavation by a regulated utility within public streets, roadways, rights-of-way or sidewalks in conjunction with the installation, repair or maintenance of transmission facilities provided such excavation does not require the regulated utility or its agents to cut, break, move, remove or otherwise disturb any pavement in the course of its excavation.

(g) The applicant shall comply with the following rules and regulations while conducting the right-of-way construction:

(i) The applicant shall restore any damage to any lawns within seven (7) days of the installation occurring;
(ii) The applicant shall repair any driveways and/or culverts within seven (7) days of the construction being completed on said property;
(iii) The applicant shall install the underground utility on the farthest upslope and/or away from the road when possible;
(iv) The applicant shall not leave any trenches open overnight; and
(v) The applicant shall submit photographic documentation prior to commencing the work and immediately following the completion of the work.

Ordinance 453

4) APPLICATION FOR PERMIT

(a) The application for a permit shall be in writing and signed by the applicant or his agent. The applicant shall submit to the Public Works Department Foreman, at the time of application, sufficient information relating to the work to be done including the general location and nature of the work and the method applicant proposes to use in doing the work. The Public Works Department Foreman shall determine if sufficient information is submitted.

5) TOWN WORK EXCLUDED

(a) The fee provisions of this Section shall not apply to work performed by Town employees or to contractors performing work under contract with the Town necessitating openings or excavations in Town streets.

6) VALIDITY OF PERMIT

(a) Permits shall be valid for a period of sixty (60) days from the date of approval, except as provided for under Section 8.09 10) (g)(vii) for pavement replacement.

7) RENEWAL OF PERMIT

(a) If operations have begun under an approved permit and will continue beyond the sixty (60) day validation period, the permittee shall apply for a thirty (30) day permit renewal by written request to the Public Works Department Foreman and payment applicable fee as established by resolution of the Delavan Town Board from time to time.

8) TOWN STANDARDS

(a) All street work shall be performed in accordance with the Restoration Requirements set forth in Appendix B – Design Standards of Chapter 18 of the Town Code of Ordinances. Any damaged curb and gutter, sidewalk or grass-covered area shall be restored to the condition prior to damage.

(b) All work involving underground improvements shall be performed in accordance with Section 4.0 of Appendix B – Design Standards of Chapter 18 of the Town Code of Ordinances.

9) BOND

(a) Before a permit for excavating or opening any public street, sidewalk, ditch, alley or public right of-way may be issued, the applicant must deposit with the Town a cash deposit or an executed indemnity bond in the sum determined by the Public Works Department Foreman based upon the type, extent and estimated cost of the project conditioned that the applicant: will indemnify and save harmless the Town of Delavan and its officers from all liability for accidents and damage caused by any of the work covered by his permit; will fill up and place in good and safe condition all excavations and openings made in the street; will replace and restore the pavement over any opening the applicant may make as near as can be to the state and condition in which it was found; will keep and maintain the same in such condition, normal wear and tear excepted, to the satisfaction of the Public Works Department Foreman for a period of 18 months; and will pay all fines or forfeitures imposed upon the applicant for any violation of any rule, regulation or ordinance governing street openings or drain laying adopted by the Town 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. The bond shall also guarantee that, if the Town shall elect to make the street repair, the person opening the street will pay all costs for such repairs.

(b) Faulty work or materials shall be immediately replaced by the permittee upon notice by the Town. Failure to correct deficiencies shall result in a one (1) year revocation of the right to obtain a street opening permit. Deficiencies not corrected by the permittee within the time period set forth in notice from the Town Board as provided in paragraph 8.09 9)(d)shall be repaired by the Town. The Town shall bill the permittee for all labor, materials and equipment used plus ten percent (10%) for administration and may draw from the bond to pay such costs.

(c) The person who does such restoration shall be responsible therefor for 18 months from the date of the completion of the work and the required bond shall remain in effect for such 18-month warranty period.

(d) Whenever the Town Board shall find that any such work has become defective within 18 months of the date of completion, it shall give written notice thereof to the permittee or to his surety stating the defect, the work to be done, the cost thereof and the period of time deemed by the Town Board to be reasonably necessary to complete said work. After receipt of such notice, the permittee 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. Any defective work not repaired by the permittee shall be repaired by the Town in accordance with the provisions of paragraph 8.09 9) (b).

(e) The insurance requirements of 8.09 3) (d) above and the bond requirements 8.09 9) (a)above, may be waived by the Public Works Department Foreman for minor homeowner occupied replacement, provided, however, that Digger’s Hotline notification has been made and any noted utilities have carefully been located.

(f) Public Utilities. All public utilities as defined in Sec. 66.0725 and 196.01, Wis. Stats., are hereby required to be bound by the terms and conditions of

this Section.

10) REGULATIONS GOVERNING EXCAVATIONS AND OPENINGS

(a) Frozen Ground. No openings in the streets, alleys, sidewalks or public ways shall be permitted between November 15th and May 1st except where it is determined by the Public Works Department Foreman or its designee to be an emergency excavation.

(b) Protection of Public

(i) Every opening and excavation shall be enclosed with sufficient barriers, signing, and such other traffic control devices as may be required by the Town and in accordance with Section VI of the Manual of Uniform Traffic Control Devices. Sufficient warning lights shall be kept on from sunrise to sunset. No open flame warning devices shall be used. Except by special permission from the Public Works Department Foreman, no trench shall be excavated more than fifty (50) feet in advance of pipe or conduit laying nor left unfilled more than fifty (50) feet from where pipe or conduit has been laid.

(ii) 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.

(iii) Unless otherwise approved, a minimum of one (1) lane of traffic in each direction shall be provided. Every effort shall be made on the part of the permittee to provide reasonable access to all properties adjacent to his project. In the event traffic is limited to less than one (1) lane in each direction, a flagman or temporary traffic control signal shall be provided so as to safely cycle traffic in each direction past the work area.

(iv) The permittee shall perform the work in such a manner so as not to disrupt the flow of traffic in the area or endanger the safety of workmen or passersby. It shall be the responsibility of the permittee to prevent traffic backup during construction operation. The permittee shall notify the Public Works Department Foreman forty-eight (48) hours prior to commencement of excavation of the location and extent of the excavation, unless the excavation is an emergency excavation as identified in Section 8.09 10)(g).

(v) When the operations will result in the loss of any utility service to private properties, the private properties shall be notified in writing or by personal contact at least twelve (12) hours prior to the loss of service, unless the operations are part of an emergency excavation as defined in Section 8.09 10)(g).

(c) **PAVEMENT REMOVAL**

(i) Removal of existing pavement shall be to neat, straight lines. The permittee shall make a final saw cut in the existing pavement after backfilling. Excavations shall be kept to the minimum possible and acceptable for the convenience and safe performance of his work and in accordance with all applicable codes and regulations.

(ii) If the pavement is damaged during excavation beyond the original saw cut lines, it shall be saw cut again along neat, straight lines. The finished saw cut shall leave a regular rectangular section for pavement replacement. Should the street opening occur within adjacent or close to an existing patch or require more than one (1) opening within a short distance, the permittee shall identify and locate the existing patches or additional openings on the permit application form. The Public Works Department Foreman or his designee shall, on the basis of an on-site inspection, approximate the boundaries of the pavement replacement area.

(iii) Pavement replacement areas with the long

dimension in the direction of travel shall have the long dimension parallel with the curb line or the direction of travel. Pavement replacement areas in concrete pavements shall be parallel with or at right angles to the direction of travel.

(iv) The Public Works Department Foreman or his designee may order the permittee to remove and replace up to one (1) full lane width of pavement along the patched or excavated area. Special care shall be taken with concrete pavement to produce a vertical face on the existing concrete at the point of the saw cut to insure a full depth of concrete at the joint.

(d) Excavation

(i) All excavated material shall be piled in a manner such that pedestrian and motor traffic is not unnecessarily disrupted. Gutters and ditches shall be kept clear or other satisfactory provisions made for street drainage, and natural watercourses shall not be obstructed.

(e) Backfilling

(i) Wherever an excavation crosses an existing utility, pipe or other structure, backfill shall be carefully compacted in stages from the bottom of the excavation. Any sanitary sewer, storm sewer, water, telephone, natural gas or other service shall not be interrupted by the permittee. It shall be the permittee's responsibility to have the various utilities locate and mark their facilities prior to excavation.

(ii) Mechanical compaction shall be used on all materials used for trench backfill. Each layer (12 inch maximum) shall be uniformly compacted to a dry density of at least ninety-five percent (95%) of the maximum dry density as determined by the Modified Proctor Test (ASTM-1557). Compaction or consolidation by flooding shall not be permitted.

(iii) All excavations shall be subject to testing by

the Town. Backfilled material not achieving the above compaction requirements shall be removed and recompacted by the permittee. The cost of any retesting shall be paid by the permittee.

(f) Notice. It shall be the duty of the permittee to notify the Public Works Department Foreman and all public and private individuals, firms and corporations affected by the work to be done at least one (1) business day before such work is to commence. The Public Works Department Foreman shall also be notified at least four (4) hours prior to backfilling and/or restoring the surface.

(g) Emergency Excavation

(i) 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 make 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 and shall notify Town officials immediately.

(ii) In emergency excavations during winter months when it is not possible to replace the removed pavement with a like material, the excavation shall be temporarily resurfaced with a minimum of four (4) inches of cold mix bituminous material applied in two (2) inch layers. This temporary wearing surface shall be compacted and rolled smooth. These temporary wearing surfaces shall be removed and replaced with material as specified above by not later than the following June 1st, except as provided above. Permanent pavements shall be replaced within sixty (60) days of the date of the permit.

(h) Repair by Town

(i) The Town may elect to have the Town or a contractor working for the Town make the pavement

repair for any street or sidewalk opening, in which case the cost of making such repair and of maintaining such repair for one (1) year shall be charged to the person making the street opening.

11) **PUBLIC UTILITY POLES**

a) Permit for erection.

i) No person shall erect any telegraph, telephone, electric, railway or other utility poles or posts upon any right-of-way unless a permit is first obtained.

ii) Application shall be made in the manner provided for in section 3, and such application shall, among other things, state the route of the proposed line or lines or any extension thereof shown as nearly as practicable the location of each pole or post and the number and location of the wires, also the approximate height of the poles, and if transformers or other apparatus is to be affixed to the poles, the approximate location and weight thereof shall be stated.

iii) Such permit shall be subject to revocation for reasonable cause at any time upon giving to the holder of the permit six months' notice. However, less time of revocation may be given when public necessity or safety requires any ole or post be removed, in which case, the time for such removal shall be state in such notice.

iv) Where poles are replaced by like poles in the exact location where formerly located, no permit is required unless the eight thereof is less than the height of the replaced pole.

b) Location of poles. Unless otherwise particularly provided in the permit, utility poles erected in any street shall be placed on the outer edge of the sidewalk just inside of the curb and on the line dividing the plot or parcels of land in such manner so that the same will not unreasonable inconvenience the public or the adjoining proprietor or residence or disturb the drainage of the street, or interfere or disturb the trees or other public or private property on the line of the street, and when erected in an

alley, the pole shall be set as near the side line as practicable, and in general compliance with the rules relating to the erection of poles in streets and in any event, whether the poles are erected in a street or alley, they shall be located that they do not interfere with, obstruction or inconvenience the free use of the street or alley by the public. All such poles, guy wires, and posts for guy wires shall be of sufficient height to carry any wires placed thereon above and clear of all obstructions growing out of the character of use of the building or other objects adjoining such line. They shall not be attached to the eaves, roof of tops of houses or trees, without the consent of the owner thereof given in writing, and no poles, masts, towers, brackets, or supports shall be less in height from the surface of the ground immediately below than 30 feet, except as to guy posts, the height of which shall be as approved by the Director of Public Works in the permit allowing the same.

c) Resetting. Whenever any right-of-way upon which any utility poles have been set, is relocated, reconstructed, reconfigured, regraded, graded or paved, all the poles shall be relocated and reset at the expense of the owner so as to conform to the street as reconstructed and failure of the owner of the poles to reset the same as provided in this subsection shall be cause for immediate revocation of the permit under which the poles are maintained, in which event such cancellation may be made by 10 days' notice provided in Subsection (a)iii.

d) Name of company on poles. All utility poles for the support of wires shall be marked with the name or initials of the company owning them at a point approximately five feet from the ground surface. Where a pole is used by more than one company, each crossarm or portion thereof on the pole shall be clearly marked and labeled so as to indicate the owner of use thereof.

e) The owner of poles shall, at such owner's expense, remove any unusual or abandoned poles within 30 days of abandonment or discontinuance of use.

Established April 17, 2001, Revised Ordinance 329 1.22.13, 360 9.20.16

8.10 ADOPTION OF STATE STATUTES

1) Chapters 82 and 86, Wisconsin Statutes, 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 pre-empt those standards established herein.

Established April 17, 2001

8.11 DRIVEWAYS

1) DRIVEWAYS REGULATED

(a) 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:

i. Minimum road surface width: twelve (12') feet
ii. Minimum width clearance: twenty-four (24') feet
iii. Minimum height clearance of trees, wires, etc: eighteen (18') feet
iv. Maximum grade: ten (10%) percent
v. At least one (1) segment of driveway surface seventy-five feet (75') in length and eighteen feet (18') in width shall be provided for each three-hundred (300') feet of driveway length to provide for the safe passage of meeting vehicles.
vi. 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 one (1%) percent and a maximum of five (5%) percent to prevent erosion onto the public road.

vii. 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 extend no nearer to the edge of the paved portion of the public roadway than the nearest edge of the road right of way or six (6) feet from the edge of the paved portion of the public roadway, whichever is greater. Existing driveways, surfaced with anything other than asphalt, and including asphalt, which require alteration during road construction, maintenance or repair, or require the repair, replacement or repaving of the driveway connection to the public roadway, shall be replaced with asphalt. 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.

vii. 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 twelve (12”) inches and minimum length shall be twenty (20’) feet. Illegal culverts will be removed at the landowner’s expense.

2) DRIVEWAY PLAN

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

3) FEES and BOND

(a) The fee for a driveway permit shall be one-hundred ($100) dollars.

(b) Before a driveway permit may be issued, the applicant must deposit with the Town a cash deposit or an executed indemnity bond in the sum determined by the Public Works Manager based upon the type, extent and estimated cost of the driveway project conditioned that the applicant: will fill up and place in good and safe condition any excavations and openings made in the street; will replace and

restore the pavement over any opening the applicant may make as near as can be to the state and condition in which it was found; and will pay all fines or forfeitures imposed upon the applicant for any violation of any rule, regulation or ordinance governing driveway construction adopted by the Town Board. If the Town is required to bring the driveway into compliance with applicable regulations after due notice to the property owner, the bond shall be applied to offset the costs of such work by the Town.

4) VARIANCE PROCEDURE

(a) Any person, who owns real property in the Town of Delavan, 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:

(b) **EXCEPTIONAL CIRCUMSTANCES**

i. There must be exceptional, extraordinary or unusual circumstances applying to the lot or parcel that does 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 changed.

(c) **ABSENT OF DETERMINT**

i. 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.

(d) **UNNECESSARY HARDSHIP**

i. 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.

(e) **SAFETY TO PUBLIC OR GOVERNMENTAL PERSONNEL**

i. 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.

5) Any person aggrieved by the decision of the Highway Committee may appeal to the Town Board, within thirty (30) 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.

6) Any person who shall fail to comply with the requirements of section 8.11 1)(a)vii shall forfeit the bond required under the provisions of section 8.11 3) to the extent necessary to remedy any violation and in addition, upon conviction thereof, shall forfeit the sum of five thousand dollars ($5,000), together with the costs of the prosecution.

Established April 17, 2001; revised August 17, 2004, Ordinance # 254; Amended 6.20. 2006, Ordinance # 275, 3.16.2021 - Ordinance # 401, 3.16.24 – Ordinance #421; Ordinance # 427

8.12 UNIFORM SYSTEM FOR NUMBERING PROPERTIES AND PRINCIPAL BUILDINGS

1) 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.

(a) **ASSIGNMENT OF NUMBERS**

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

ii. All properties on the east side of north-south streets and all properties on the south side of east-west streets shall be assigned even 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 odd numbers. The party responsible for administration may waive this requirement when practical.

iii. Each principal building or driveway entrance 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 (1) business or family dwelling unit, each separate front entrance of such principal building shall bear a separate number.

iv. 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. If in the Judgement of the official responsible for maintaining the numbering system, posting on the building or driveway entrance is insufficient to provide direction to police and emergency personnel, the official may also require posting of the number or numbers at a location visible form the public street from which the property or properties obtain access.

(b) **ADMINISTRATION**

i. The Town Chairperson or designee shall be responsible for maintaining the numbering system. In the performance of this responsibility, the Chairperson shall be guided by the provisions of Subsection 1)(a) of this section.

ii. The Town Clerk shall keep a record of all numbers assigned under this Chapter.

iii. The Town Chairperson or designee shall issue to any property owner in the Town upon request an Address Sign for each principal building or separate front entrance to such building or driveway entrance. In doing so, the Chairperson shall issue only numerals for the number assigned to such building under the provisions of this Chapter.

Established April 17, 2001, Rev Nov 15, 2016 Ord 363

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 using 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 (3) times the actual damages sustained by the Town, pursuant to Section 86.02, Wisconsin Statutes.

Established April 17, 2001

8.14 MAINTENANCE OF PRIVATE ROADS

1) MAINTENANCE ACTIVITIES DEFINED

(a) In this section, "Maintenance Activities" includes without limitation, snow plowing, salting, sanding, patching, surfacing, resurfacing and grading of roads.

2) PURPOSE

(a) 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 person(s) or group(s) holding an interest in such private roads to act in

concert to perform maintenance activities on their own.

3) MAINTENANCE OF PRIVATE ROADS

(a) 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 group(s) or individual(s) 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 87.11 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

(a) 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

1) 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