

8.01 HIGHWAY COMMISSION.

A Town Highway Commission is hereby established consisting of the Town Chair and Town Supervisors. The Town Highway Commission shall be charged with the care and supervision of all highways and roadways in the Town pursuant to Ch. 81, Wis. Stats.

(1) The Town Highway Commission shall supervise the hire or discharge of personnel such as technical assistants, road maintenance crews, emergency help and shall contract for, as deemed necessary, materials, work and equipment to construct, repair and maintain the Town Highways with competitive bids being taken, as deemed necessary, on gravel, salt and sand, paving materials, equipment rentals, repair work, new construction or reconstruction on Town roads and mill tax roads new construction or reconstruction.

(2) Cause to have done such other things as are normally necessary to construct, build, maintain, improve, delete, abandon, obtain, condemn, purchase roads and rights-of-way and portions thereof.

(3) Post parking restrictions, either temporary or permanent, at any place where vehicular parking hinders the maintenance of Town highways or vehicular traffic thereon, prevents the proper removal of snow from the Town highways, or endangers the public safety or welfare.

(4) Proclaim the state of snow or other emergency through the press, radio or other public means of communication, and designate and authorize law enforcement officers and other personnel to inform the citizenry of the existence of the emergency. Cause the removal of any vehicle which may interfere with the operation of any snow removal equipment or any emergency vehicle to the owner or operator thereof. Such removal may be made either by Town personnel or by any garage man, service man, person, firm, or corporation designated by the Town Board or authorized agent thereof. Prosecute according to the provisions of this section any person who shall permit any vehicle to park or stop upon any uncleared Town or Town maintained highway, either during a driving snowstorm, immediately thereafter, or during a state of declared emergency in such a manner as to interfere with snow removal or other emergency equipment, unless with reasonable diligence he could not avoid it.

(5) Provide for the public safety on Town highways by posting stop signs, school and road hazard warning signs, etc., where, in its opinion, they are necessary for public good, removing obstruction of view at dangerous intersections or points in road, enforcing corner setbacks, fence and obstruction heights, line of vision, etc. per the Zoning Code, and cause the legal speed limits established by Town and County ordinances and State Statutes to be enforced on all roads in the Town.

(6) Cause public utilities to submit maps showing the location of any underground facilities within the right-of-way of any Town highways and Town maintained highways.

(7) Appoint a Superintendent of Highways who shall supervise the construction and maintenance of all highways and roadways in the Town required to be maintained by the Town, and keep them passable at all times, and perform such other services in connection with the highways as the Town Board requires, and keep a full account of all his receipts and disbursements. He may make such arrangement for the prosecution of his work as he deems necessary and appoint such foreman as the highway work requires. When any highway under his charge becomes impassable, he shall put the same in passable condition as soon as practicable. He shall make a complete and full report of all funds received and disbursed by him whenever requested so to do by the Town Board, and shall also make a complete and full report at each annual Town meeting. The Superintendent, and in his absence, the Town Board, shall immediately upon notice of its existence fill or remove any depression, ditch, hump or embankment which impedes the use of any highway in the Town. The Superintendent shall specify the size and location of all drainage culverts along or under Town highways or on private lands, where necessary, and perform all services in connection with the Town highways as the Town Highway Commission may require.

8.02 DRIVEWAYS AND CULVERTS.

(1) CULVERTS TO BE INSTALLED. (Am. #88-200) No driveway shall be constructed or maintained connecting with any street unless a suitable culvert is first installed across the roadside ditch at the street, where necessary. The culvert shall be set to the finished grade as established or at the grade established by the Town Highway Superintendent. Such culvert shall be constructed of corrugated metal pipe and shall have a cross section of not less than that of a 15" pipe. The length of the culvert shall be as required by the Town Highway Superintendent and shall be installed by the Highway Superintendent. All culverts

shall be equipped with end guards made of concrete or steel and shall be so installed as to not be beyond street height. Any person who wishes to have a culvert installed on any Town road shall first make application therefor with the Town Highway Superintendent. The applicant shall deposit a fee equal to the estimated cost of installation. The culvert and end sections shall be provided by the applicant and installed by the Town Highway Superintendent. On any county or State highway, application shall be made to the Waukesha County Highway Department.

(2) **EXISTING DRIVEWAYS.** Where the public welfare requires a suitable culvert for an existing driveway, the Town Board shall notify, in writing, the property owner maintaining the driveway across any gutter in any street, that the Town will install a culvert at the expense of the abutting property. The property owner shall deposit a sum in an amount equal to the estimated cost of installing such culvert within 10 days from date of notice. If the deposit is not made, the cost of the installation will be charged to the abutting property and, if not paid to the Town Treasurer on or before November 1, shall be entered on the tax roll as a special tax against the property.

(3) **FINANCIAL GUARANTEES REQUIRED FOR LANDSCAPING OF ROADSIDE DITCHES.** (rep. & rec. 17-626)

- (a) Guarantee Specifications. All applications for a private driveway culvert installation shall include a cash deposit, letter of credit or bond in the amount set forth from time to time by resolution of the Town Board to insure proper completion of the landscaping restoration of the roadside ditch, in addition to the cost for such installation. This cash deposit, letter of credit or bond shall be for the roadside ditch adjacent to the culvert installation, shall be in a form approved by the Town Attorney, and shall be specifically applicable to the property for which a private driveway or culvert installation application has been made and shall not cover any other property. The cash deposit, letter of credit or bond will be held by the Town until the roadside ditch landscape restoration has been completed and approved by the Town Highway Superintendent or authorized designee.
- (b) Inspection for Return of Guarantee. The property owner may request return of the financial guarantee required in subsection (a) at any time upon completion of the culvert installation and landscaping restoration. Upon such request, the Town Highway Superintendent or authorized designee shall make an inspection of the installation and restoration and if properly restored and landscaped, shall authorize return of the financial guarantee. If no request is made for an inspection within a year of the installation of the culvert, the Town shall make an inspection of the culvert and roadside ditch adjacent thereto, and if such installation is in proper condition and the landscaping and restoration of the ditch and culvert are properly completed as determined by the Town Highway Superintendent or authorized designee, then the financial guarantee shall be returned to the owner.
- (c) Unsatisfactory Landscape/Repair. If any work needs to be done on the landscaping or any restoration of the ditch or repair of any damage due to construction or erosion in the opinion of the Town Highway Superintendent, this work shall be done by the Town and the property owner shall be billed therefore by the Town. If such bill is not paid within 30 days, the amount thereof shall be charged to the financial guarantee provided by the owner and the balance thereof shall be released by the Town to the property owner as herein provided.

(4) **SURFACING OF PRIVATE DRIVEWAYS AND TOWN RIGHT-OF-WAYS.** (rep. & rec. 2002-02-004)

- (a) Concrete Surfacing of Private Driveways. No concrete surfacing shall be installed on a private driveway closer than 3' from the hard surface on the road right-of-way. If for any reason any portion of the driveway in the town right-of-way would need replacing, the town shall not be responsible for the cost of the repair or the replacement. No concrete surface driveway shall be installed on any private driveway until a permit has been obtained from the Building Inspector and shall indicate the width and length of such driveway to be installed. The Building Inspector shall advise all owners of property of the requirement for such permit at the time when the application for a building permit for the construction of any residence or other building on the premises is applied for. The amount of said permit fee shall be set by the Town Board from time to time by resolution.
- (b) Asphalt or Concrete Surfacing of Private Driveways within Town Right-of-Ways. If for any reason any portion of a driveway that extends into the Town right-of-way needs to be constructed,

repaired, replaced or resurfaced with asphalt or concrete, the Town shall not be responsible for the cost of the construction, repair, replacement or resurfacing. **Concrete driveways shall not extend any closer than three (3) feet to the edge of the paved road.** No concrete construction, repair, replacement or resurfacing shall be installed until an application has been submitted and approved by the Town Highway Superintendent. After an application has been approved by the Town Highway Superintendent, the property owner shall contract with a private contractor for the concrete construction, repair, replacement or resurfacing.

(5) STREET GRADE. (Cr. #88-200) Every building hereafter erected, structurally altered or relocated shall be located on an improved street at a grade approved by the Building Inspector as being in satisfactory relationship with the established grades, if any, and, if not, with existing street grade, with particular consideration for proper drainage and safe vehicular access. Safe vehicular access is defined as a paved driveway of sufficient width and adequate horizontal alignment to accommodate emergency vehicles and a slope not to exceed 12% at any such point. Driveways shall be graded and graveled before construction commences. Cases in question may be referred to the Plan Commission by the Building Inspector.

(6) FINANCIAL GUARANTEES REQUIRED FOR REPAIR OF CURB AND GUTTERS (rep & rec. 17-626)

- (a) Whenever a building permit is issued in an area where curb and gutter sections exist, the financial guarantee herein provided in subsection (3) above shall be required. This guarantee shall insure any necessary repairs to the curb and gutter section which may be damaged as a result of the construction activities authorized by the building permit.
- (b) The Highway Superintendent shall make an inspection of the curb and gutter adjacent to the premises after an occupancy permit has been granted by the Building Inspector. Return of the financial guarantee shall be as subsection (c) below.
- (c) If there is any damage to the curb and gutter sections as a result of the authorized construction activities, the damage shall be repaired by the Town and the cost thereof billed to the owner. If such bill is not paid within 30 days, the amount thereof shall be charged to the financial guarantee provided by the owner and the balance thereof shall be released by the Town to the property owner.

8.03 EXCAVATION IN PUBLIC RIGHT-OF-WAY.

(1) PERMITS REQUIRED. No person, company or utility (hereinafter "applicant") shall make or cause to be made any excavation in or under any street, alley, public grounds or sidewalk in the Town without first obtaining a written obstruction or excavation permit from the Town Highway Superintendent. Such permit shall be issued only upon a written application signed by the applicant. The application shall describe the place where the excavation is proposed to be made with such certainty that it may be readily located, and shall specify the purpose for which the excavation is to be made and when it is proposed to begin. Applicants shall pay a non-refundable application fee in an amount which shall be set forth from time to time by resolution of the Town Board.

(2) FINANCIAL REQUIREMENTS.

- (a) Cash Bond. Applicant shall provide a cash bond binding the applicant to the Town in an amount as determined by the Town Highway Superintendent and Town Administrator, that does not exceed \$10,000, that runs to the Town and any third party who may be injured, and that secures the performance of the conditions specified, as enumerated in Wisconsin Statutes Section 66.0425(2). The condition voiding the bond being that the applicant will perform and fully complete in a manner approved by the Town Highway Superintendent, all work for which any highway and street opening permit is issued, and within the time prescribed by the Town Highway Superintendent. In addition, such bond shall provide that the applicant will backfill, maintain, and restore the surface of any Town highway, street, alley, sidewalk or right-of-way.
- (b) Indemnity Bond or Certificate of Insurance.

1. **Bond.** An indemnity bond binding the applicant, as principal, and a corporate surety licensed to do business in this State, as surety, to the Town in the penal sum of \$10,000, the condition voiding the bond being that the applicant shall indemnify and save harmless the Town, its officers, agent and employees and shall defend the same from and against any and all liability claims, loss, damages, interest, actions, suits, judgments, costs, expenses, attorney's fees and the like, to whomsoever owned and by whomsoever brought or obtained, which may in any manner result from or arise in the course of or out of the performance of any work for which any highway and street opening permit is issued to the applicant during the term of the bond or of any work incidental thereto; the bond shall provide that the penal sum of \$10,000 does not and shall in no manner be construed to limit the legal liability of the applicant (who is principal thereon) to indemnify or otherwise reimburse the Town for any loss, damage or expense it may incur through the defaults, acts or omissions of the applicant in the performance of any work for which a highway and street opening permit is issued to the applicant.
2. Insurance.
 - a. In lieu of the indemnity bond, the applicant may deposit with the Town Board proof of insurance showing to the Town Administrator's satisfaction that the applicant is maintaining in force policy of insurance containing the coverages indicated herein. Such coverage shall be provided for all work in the street right of way and shall be provided by the applicant and any subcontractors involved in the project.

(1). **Commercial General Liability (Occurrence Form)**

Applicant's policy shall include the following:

- a. General Aggregate (other than Prod/Comp Ops Liability) \$2,000,000
- b. Products/Completed Operations Aggregate: \$1,000,000
- c. Personal & Advertising Injury Liability \$1,000,000
- d. Each Occurrence \$1,000,000
- e. Town of Delafield as an Additional Insured on a primary non-contributory basis, using for CG2010 07/04 or equivalent.
- f. Waiver of subrogation in favor of Town of Delafield

(2). **Workers' Compensation and Employer's Liability**

Applicants Policy shall include the following:

- a. Workers' Compensation State Statutory Limits
- b. Employer's Liability
 1. Bodily Injury by Accident \$100,000 each accident
 2. Bodily Injury by Disease \$500,000 policy limit
 3. Bodily Injury by Disease \$100,000 each employee
 4. Waiver of Subrogation in favor of Town of Delafield

(3). **Auto Liability**

Applicants Policy shall include the following:

- a. Combined Single limit \$1,000,000

(4). **Umbrella Liability**

Applicants Policy shall include the following:

- a. Each Occurrence and Aggregate \$5,000,000

- b. The above coverages must be placed with an insurance company with an A.M. Best rating of A-: VII or better.

The expiration date of the insurance policy and must provide that the insurance policy cannot be changed or canceled except upon 10 days' notice to the Town. If such insurance policy expires or is canceled within one year of the date of issuance of any obstruction or excavation permit, similar insurance must be provided without any gap in coverage.

3. Form. The bonds shall be in the form designated or approved by the Town Board, and the Town Board shall also approve the sureties and any certificate of insurance. Bonds may be furnished to cover each individual permit applicant, or an applicant may furnish bonds covering work under all permits granted within a stated period, and may periodically renew the same. The obligation of such bonds shall remain in full force and effect after date of expiration as to any work for which a permit was granted prior to expiration.

(3) SPECIFICATIONS FOR HIGHWAY AND STREET OPENINGS.

- (a) No openings in Town highways, Town maintained highways, streets, alleys, other public ways or public lands will be permitted when the ground is frozen, except, when necessary, in the opinion of the Town Highway Superintendent. In making such an opening all materials excavated from existing or proposed pavements or driveways or within 5' of the edges thereof, shall be removed from the site and disposed of by the applicant in a manner approved by the Town Highway Superintendent. Maintenance of any excavation shall be performed on a regular and as-needed basis until such time a permanent repair can be performed. If maintenance work is not performed timely, no additional permits will be issued to the applicant and the Town may use the cash bond to perform repairs.
- (b) All excavations made in accordance with permission given pursuant hereto shall be enclosed with sufficient barriers, and lamps shall be maintained upon the same at night. All other necessary precautions shall be taken to guard the public against accidents from the beginning to the completion of the work. Underground facilities may be laid only on condition that the applicant is bonded as hereinbefore mentioned from all damages that may result from his neglect of necessary precaution against all accidents to persons or property of others.
- (c) All disturbed areas associated with an excavation of any Town highway, street, alley, other public way or public lands, must be restored to precisely the same condition and relation to the remainder as they were before. All rubbish, boulders and other undesirable materials not used in backfilling must be removed immediately and the excavated areas shall be left in perfect repair. The applicant shall be responsible for to repair any settling or damage of the excavation for one year after approval of the repair.
- (d) When any excavation is made in an existing or proposed pavement or driveway, or within 5' of the edge thereof, all excavated material must be removed and the excavation backfilled with slurry to 4-inches below the surface of the pavement in a manner approved by the Town Highway Superintendent. The Town Highway Superintendent may waive the requirement, in writing, for slurry backfill for repairs only done to the surface of the driveway. The top 4-inches shall be asphalt pavement conforming to specifications in this Chapter. Concrete pavement shall be replaced in kind. Concrete shall meet the following specifications:

Minimum cement content - sacks per cubic yard 6.0
Compressive strength after 28 days cured 3,500 psi
Maximum amount of water per sack of cement 6.0 gallons
Size of coarse aggregate required No. 1 plus No. 2
Slump 1 Inch - 3 Inches
Air Content 4.5% - 7.5%
Admixtures (including flyash) shall NOT be allowed.

Any tunnels shall be backfilled in a manner approved by the Town Highway Superintendent and Town Engineer.

- (e) No work shall be performed and no excavation shall be made within the limits of any Town maintained highway, street, alley, other public way or public lands without prior notification in writing to the Town Highway Superintendent at least 48 hours before commencement of the work.
- (f) Traffic shall not be shut off from travel over the highways without express authority from the Town Highway Superintendent.
- (g) All pipelines shall be installed and laid so as not to interfere with the use of the highways by the public nor the use of the adjoining land by the owner thereof, and no trees or bushes shall be cut,

trimmed or the branches thereof cut or broken in the construction or maintenance of any line without the consent of the owner of the trees or bushes.

- (h) If any utility services installed by the applicant shall interfere with the maintenance or construction, within the right of ways of any streets or public way, the utility services shall be realigned at no expense to the Town.

(4) ABOVE-GROUND INSTALLATIONS

- (a) *Above-ground installations prohibited.* No person shall encroach upon or obstruct or encumber any street, alley, sidewalk, public grounds or land dedicated to public use, or any part thereof, or permit such encroachment or encumbrance to be placed or remain on any public way, except as provided in subsection (b) and (c).

- (b) *Exceptions.* The prohibition of subsection (a) shall not apply to the following.

1. Official signage, official traffic control devices, and utilities owned or leased by the Town.
2. A use permitted by conditional use permit or right of way agreement granted under the applicable laws.
3. Building materials for the period specifically authorized by the Town Board which shall not obstruct more than 1/3 of the traveled portion of the street, and which do not interfere with flow in the gutters.
4. Mailboxes for the collection of mail from the United States Postal Service are exempted from sub (a) if they comply with the Town's standard for mailbox dimensions and installation guidelines.
5. A legally placed above grade use in existence prior to April 11, 2023.
6. Special privileges permitted pursuant to State law.

- (c) *Permit required.* If an encroachment, obstruction, or excavation results in the above grade use of the right-of-way then an above grade right-of-way permit from the Town is required prior to the encroachment, obstruction, or excavation being established.

1. Application requirements.

- a. An above grade right-of-way permit application shall be filed with the Town Highway Superintendent.
- b. The applicant shall pay the above grade right-of-way permit fee. The above grade right-of-way permit fee shall be in the amount as established by resolution of the Town Board, and may be amended from time to time. In addition, a professional fee charge back agreement shall be signed to ensure compliance with Town ordinance that professional fees incurred by the Town to review said applications are not paid by the taxpayers, but by the applicant seeking special review and benefit.
- c. The applicant shall provide a detailed plan with structural engineering, scale drawings, visual rendering, and survey showing the exact location, size, appurtenances and or attachments of the equipment or structure to be placed in the right-of-way, along with the exact location of all streets, sidewalks, utilities, trees, and any other obstructions in the vicinity of the proposed installation, and the location of structures on abutting properties.
- d. The applicant shall provide a detailed report describing potential hazards to the public from said equipment, structure, and impacts due to location on safety for the driving public, pedestrians, and owners and users of adjacent property for such things as, but not limited to; fall zone, fire, explosion, chemical, environmental impacts, and vehicle crash impacts. Said report shall indicate the risk of the safety hazard and the proposed design element to address said safety hazard. The Town Highway Superintendent may require the applicant's report to be provided by a structural engineer or other expert approved by the Town Highway Superintendent, if the Town Highway Superintendent deems it to be

necessary to have such an expert opinion in light of the circumstances of the application, for the protection of public health and safety, in which case the applicant shall provide such an opinion at the applicant's cost.

- e. The plan must show how the installation and maintenance of said above grade right-of-way use will not impact snow removal or lawn care from the terrace, sidewalk or street, or conflict with the operation or maintenance of vehicular travel and existing utilities above or below ground.
 - f. An alternative analysis shall be provided to show what options other than locating above grade in the right-of-way exists and the approximate costs of such alternatives.
2. Application process.
- a. The application shall be submitted for review by the Town Highway Superintendent, and shall include all information required by applicable laws. The application shall be subject to a completeness determination within the time required by applicable laws.
 - b. Existing uses. Town staff shall determine whether to approve, deny, or conditionally grant above grade right-of-way permits for any new encroachment, obstruction, or excavation added to either a previously approved above grade use or one that was legally placed prior to April 11, 2023, unless the Town Highway Superintendent concludes the new encroachment, obstruction, or excavation may obstruct or incommode the public use in which case the application shall be subject to the procedures of subsection c.
 - c. New uses. All above grade right-of-way permit applications other than those described pursuant to subsection b., shall be considered as follows.
 - i. The Town Board shall hold a public hearing as reasonably soon as possible after application materials have been deemed complete by the Town and proper notification period for a class 1 notice and notice to all properties within 200 feet of the proposed installation.
 - ii. The Town Board shall give consideration to the application, the testimony received at the public hearing, staff and expert reports, or other information as the Town Board determines appropriate, as follows.
 - A. The Town Board shall consider public safety, alternative options, and the public good when considering an above grade right-of-way permit.
 - B. All users of the Town right-of-way shall comply with the following aesthetic standards:
 - 1. In areas where facilities are currently nonexistent or underground, undergrounding is required.
 - 2. No new above ground structures, including co-locations on existing structures, shall be placed within 500 feet of historic structures or historic districts designated by the National Register of Historic Places in Wisconsin or listed on the State Register of Historic Places. The 500-foot separation is waived for installations that are completely concealed from view, or are not visible from locations where the historic structure can be observed.
 - 3. Attachments to existing structures shall be designed to be flush with the existing structure as much as can reasonably be done, shall be a color that matches the existing structure and shall be the smallest size possible to reasonably accommodate the intended purpose. If the structure to which the attachment is made changes color due to repainting, resurfacing or other means, the attachment shall be modified to match the new color.

- C. The Town Board may grant the permit, grant the permit with conditions, or deny the permit. If the application is denied, the applicant must be provided a written documentation explaining the basis for the denial.
3. Non-Preemption. Any party objecting to the requirements of this Subsection (c) (Permit Required) or conditions imposed shall have an opportunity to demonstrate that the requirement constitutes an effective prohibition in violation of State or Federal law, in an appeal made pursuant to Section (d), below.

(d) *Appeals*. Any person who wishes to dispute actions taken by the Town pursuant to this Ordinance may contact the Town Clerk and request to appear before the Town Board at an upcoming regular Town Board meeting and may, at that time, present the matter to the Town Board for resolution. Appeal from the decision of the Town Board shall be by writ of certiorari to the Waukesha County Circuit Court.

8.04 HEAVY OR INJURIOUS VEHICLES RESTRICTED.

No machine having lugged wheels or metal tracks shall be driven or operated upon or along any street, alley or public place in the Town unless permission is secured, in writing, from the Town Highway Superintendent, which shall specify the route to be taken by such machine and it shall be unlawful to deviate from such route. The Town Highway Superintendent may require the removal from any machine of any flanges, cleats, or other removable parts which could damage the streets, and also require, whenever in his judgment it is necessary that planks, plywood plates or other sufficient protection for the streets be provided by the person driving or operating any such machine and be placed by such person on the street, and the machine shall be run upon such planks, plywood, plates or other protection when such requirement is made. Farm vehicles, such as tractors, combine harvesters, hay wagons, etc. shall be exempt from these requirements.

8.05 TEMPORARY WEIGHT RESTRICTIONS.

(1) GENERAL. The Town may limit the use of any Town road, bridge or culvert at any time, to the use of motor vehicles having a gross vehicular weight, regardless of the number of axles, of not more than 6 tons. Such restrictions may be imposed by the Town Highway Superintendent when in his judgment the use of any Town road, bridge or culvert would be damaged or destroyed by use for motor vehicles having a gross weight in excess of the limitation herein provided because of weakness of the roadbed, bridge or culvert due to deterioration or climate conditions or other special or temporary conditions.

(2) TEMPORARY LIMITS. Such temporary weight limitation shall be imposed by erecting signs on or along the Town road on which it is desired to impose the limitation sufficient to give reasonable notice that a temporary weight limitation is in effect and the nature of that limitation. Any temporary weight limitation as provided herein with reference to any bridge or culvert shall be imposed by erecting similar signs within 100' of each end of the bridge or culvert to which the weight limitation applies. All such temporary weight limitation signs shall comply with the rules of the State Department of Transportation.

(3) SPECIAL PERMIT. The Town may grant a special permit to the owner or operator of any motor vehicle having a gross weight in excess of the weight limitation herein imposed to operate the motor vehicle on any Town road while the weight limitation is in effect, if in his judgment an emergency condition exists which requires the use of such motor vehicle, and if the use of such motor vehicle would not damage the Town road on account of weather and street conditions at the time the permit is applied for. If such permit is issued, it shall be limited to the vehicle or vehicles described thereon and such permit shall name the street or streets upon which the vehicle or vehicles may travel, the gross vehicular weight allowed and the time that such permit shall be in effect. Applications for such permits shall be made to the Town Highway Superintendent.

8.06 DAMAGING STREETS PROHIBITED.

No person shall injure, tear up or remove any pavement, sidewalk or crosswalk or any part thereof, or dig any holes, ditches or drains in or remove any sod, stone, earth, sand or gravel from any street, lane, alley or public ground within the Town without obtaining a permit from the Town.

8.07 BARRICADES, INTERFERENCE WITH PROHIBITED.

No person shall remove an authorized barricade from any street or injure the same or drive upon any street which has been properly barricaded.

8.08 PLACING INJURIOUS SUBSTANCE ON STREET PROHIBITED.

No person shall place or cause to be placed upon a street, alley or sidewalk any foreign substance which may be injurious to any vehicle or part thereof.

8.09 LITTERING PROHIBITED.

No person shall throw or deposit any debris or waste material on any street, alley, sidewalk or other public or private property.

8.10 DEBRIS FROM VEHICLES PROHIBITED.

No operator of any vehicle shall permit to be thrown or deposited therefrom any type of debris or waste material. This section shall prohibit the deposit, upon the streets, alleys or sidewalks, of mud, gravel or dirt from the wheels or tires of a vehicle.

8.11 SPILLING DEBRIS FROM VEHICLES PROHIBITED.

No operator of any vehicle transporting waste or foreign matter shall permit such to be spilled on or along any street, alley or sidewalk.

8.12 VEHICULAR TRAFFIC OVER DRAINAGE DITCHES AND STREET CURBS.

(1) DEFINITION. "Motor vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public street including, but not limited to, passenger motor vehicles, motor trucks, tractors, earth moving equipment and any other type of motor drive vehicles.

(2) PROHIBITED. No person shall operate any motor vehicle over, along or into any drainage ditch adjacent to any public street nor over a street curb except over an established driveway, except that a contractor may drive through a drainage ditch if this is necessary for the repair of an existing well or private sewage disposal system, or for the installation of sanitary sewer or water laterals. In such event the contractor having the plumbing permit for such work shall be responsible for the repair of the ditch and road surface. This repair must be made to the satisfaction of the Superintendent within 30 days after the work is completed. Until such satisfactory repairs are made, the Plumbing Inspector shall not issue any further plumbing permit to the contractor involved.

8.125 UNPAVED HIGHWAY RIGHT-OF-WAY AREAS; ENCROACHMENTS PROHIBITED. (Cr. #89-224)

(1) Pursuant to §§86.03 and 86.04, Wis. Stats., from and after the enactment hereof, no person shall plant trees, shrubs or stone formations or unsafe mail boxes within the dedicated highway right-of-way areas adjacent to the paved portion of such highway. This section shall not apply to typical flared end of culverts.

(2) The Town Board may grant special exceptions to this section for good cause shown.

8.13 STANDARDS FOR THE CONSTRUCTION OF TOWN HIGHWAYS.

(1) ARRANGEMENTS. The provisions of Ch. 18 of this Code shall apply.

(2) DESIGN STANDARDS. The provisions of Ch. 18 of this Code shall apply.

(3) REQUIRED IMPROVEMENTS. The provisions of Ch. 18 of this Code shall apply, and other facilities deemed necessary to the Town Board, including storm sewers, sanitary sewers, curb and gutters, bridges, water systems, etc.

(4) CONSTRUCTION STANDARDS. These construction standards and the previously listed design standards and required improvements shall apply to any party desiring acceptance by the Town of any

road to be subsequently designated a Town highway and maintained by the Town. No road to be ultimately accepted as a Town highway and not shown on the Official Town Highway and Street Map shall be constructed without previous approval of the Town Board.

- (a) The typical section for local residential Town roads is shown on Exhibits "A" "B" and "C" at the end of this chapter. The typical section for all other roads shall be designated by the Town Engineer. (Am. #90-264)
- (b) The Town Board shall require that profiles of roads to be constructed and accepted, be prepared by a Registered Professional Engineer in the State and be submitted to the Town Board for approval of the established grades on all of the proposed highways and drainage easements prior to proceeding with any grading operations.
- (c) Before commencing with any earth moving operations, the contractor shall obtain an erosion control and storm water management permit from Waukesha County Parks and Land Use Department, Land Resources Division. A drainage plan shall be submitted and shall consider the following: Temporary cover during grading operations; permanent grass and vegetative cover by use of stabilization materials, such as mulch, jute mat, excelsior, low growing plants, vines, and sod; construction of diversionary channel and terracing access slopes; and leaving critical areas in undisturbed condition. The drainage plan shall be approved by the Town before the developer may proceed with any grading operations.
- (d) Topsoil, peat, unstable material, all vegetative cover, stones, stumps, roots, and other deleterious materials shall be removed below the subgrade of the roads and replaced with sound fill materials placed and compacted to the satisfaction of the Town Highway Superintendent and Town Engineer. Any rock encountered shall be excavated to a point at least 20" below the finished grade of the roads. The contractor shall not proceed with the grading operations until the subgrade has been checked for proper grade, proof-rolled and approved by the Town Engineer.
- (e) After the subgrade has been approved, the contractor shall place a minimum of 10" of 1 1/4-inch dense graded base course in accordance with Section 305 of the Standard Specifications for Road and Bridge Construction, Division of Highways, State Department of Transportation (State Specifications), most recent edition. Acceptable base materials shall be crushed stone or crushed gravel. In areas that are wet or seasonably wet, a minimum 6" layer of no. 2 stone shall be placed below the 10" base course. For areas that fail the proof roll, the contractor shall excavate to an elevation at which the contractor has determined that he/she can pass the proof roll, install a filter fabric (Type SR, Chapter 645 State Specifications), and fill the excavation with 3-inch dense graded base course and compact. The Town may require that the aggregate be tested at the owner's expense by an approved testing laboratory before being placed on the road. If additional material is required, in the opinion of the Town Highway Superintendent or Town Engineer to stabilize the road, the same shall be furnished and applied to the satisfaction of the Town Highway Superintendent or Town Engineer before acceptance, at no cost to the Town. Shoulders, if required, shall be 3/4-inch crushed stone or crushed gravel.
- (f) After the aggregate has been placed and approved by the Town, 4-inches of asphalt shall be placed in two lifts. The lower (binder) lift shall be 2 1/4-inches of bituminous concrete 3 LT 58-28 S installed in accordance with §460 of the State Specifications. The Town may require that the asphalt course be cored to determine adequate thickness. The cost of these tests shall be paid by the developer. If the lower lift should be found to be less than 2 1/4-inches in thickness, the average deficiency shall be determined by the Town Engineer and a proportionate increase be made in the final lift. The upper (surface) lift shall be 1 3/4-inches of asphalt 5 LT 58-28 S, unless otherwise approved by the Town Highway Superintendent and Town Engineer. Other mix specifications may be used or required based on traffic analysis and site conditions, and shall be approved by the Town Highway Superintendent and Town Engineer. If the final thickness is found to be deficient, the deficiency shall be remedied by placing a lift over the entire roadway equal in thickness to such deficiency, but in no case less than 1-inch.
- (g) Curb and gutter that meets the requirements shown on Exhibit "D" shall be installed on the inside of all curvilinear roads and at all radii of intersections.
- (h) Developer may install curb and gutter with storm sewer throughout the entirety of a subdivision, if approved by the Town Board, after recommendation from the Town Highway Superintendent and

Town Engineer. Curb and gutter shall meet the requirements of Exhibit "D." Storm sewer shall meet the following standards:

Pipe: Reinforced Concrete Pipe

Catch Basins: File No. 29 (Green Book) with Neenah 3508 B Frame and Grate

Manholes: File Nos. 11 or 12 (Green Book)

Construction specifications shall be in accordance with the Standard Specifications for Sewer and Water Construction in Wisconsin, with Addendums (Green Book)

- (i) When roadways intersect a collector street, County trunk highway, or State trunk highway, deceleration and acceleration lanes, flairs, tapers and/or increased radii may be required on one or both of the intersecting streets. The Town Engineer shall determine the location of these lanes, etc. These areas shall be graded, stoned, paved and landscaped as specified herein.
- (j) All culverts shall be corrugated metal pipes or reinforced concrete pipe with standard end sections.
- (k) Ditches and side slopes along roads and in easements shall be covered with a minimum of 4" of topsoil free of all stones, roots and other debris, graded, seeded and/or sodded, mulched, fertilized and maintained for a sufficient period to provide adequate grass cover prior to acceptance by the Town. Unless specifically altered by the Town Board, the following standards shall be followed:

SLOPE OF DITCH	MINIMUM RESTORATION STANDARD
Less than 1.25%	No ditch is allowed to be less than 1.25% slope
1.25% to 2.00%	Ditch bottom shall be seeded and staked with jute matting or similar material.
2.00% to 4.00%	Ditch bottom shall be sodded and staked with jute matting or similar material
4.00% to 8.00%	Ditch bottom shall be sodded
Over 8.00%	Ditch bottom shall be paved.

Town Engineer and Town Highway Superintendent may allow alternative restoration standards based on individual site conditions.

8.14 OFFICIAL TOWN HIGHWAY AND STREET MAP.

To facilitate the carrying out of the provisions of this chapter, the Town Board may, in cooperation with the Town Plan Commission, have prepared and subsequently adopt an official Town Highway and Street Map. This map shall become a part of this chapter after adoption and publication by the Town Board and may include: location, width, weight restriction, if any, and the name of all Town, County, State, federal, mill tax roads, and Town owned rights-of-way.

8.15 ADOPTION, AMENDMENTS, AND EFFECTIVE DATE.

Amendments to this chapter shall take effect and be in full force after adoption by the Town Board

following a public hearing. Notice of this public hearing shall be given by publication in the official newspaper at least 3 times preceding the hearing and giving not less than 10 nor more than 30 days notice prior to the hearing.

8.16 UNIFORM ADDRESS SYSTEM.

(1) **ADOPTED.** The uniform address system of the Town shall be based on and become a part of a uniform address system for Waukesha County, as recommended by the County Board on March 12, 1957. All provisions herein relating to the establishment of a uniform address system for the County are hereby approved, and such provisions are applicable to the Town as more specifically set forth in the following sections, are hereby adopted by the Town Board.

(2) **ESTABLISHED.** There is hereby established a uniform system of numbering properties fronting on all streets, highways and rights-of-way in the Town and all existing residences and places of business and all residences and places of business which are hereafter constructed shall be numbered in accordance with the provisions of this section.

(3) **BASE LINES.**

- (a) Base lines, as recommended for a uniform County address system, shall be used for determining the numbering in the Town. The east west line, as recommended, shall be used for numbering along all streets running north and south. This base line shall be a continuation of the east west base line used in Milwaukee County and shall be the north or top line of Sections 31 to 36 inclusive in the Towns of Brookfield, Pewaukee, Delafield and Summit. Its numerical designation shall be "1". A north south base line, as recommended, shall be used for numbering along all streets running in a westerly direction. This base line shall be the eastern boundary of Waukesha County and its numerical designation shall be "124".
- (b) Each property north of the east west base line and facing a street running in a northerly direction shall carry an address indicating its position west of the north south base line and its position north of the east west base line.
- (c) Each property south of the east west base line and facing a street running in a southerly direction shall carry an address indicating its position west of the north south base line and its position south of the east west base line.
- (d) Each property west of the north south base line and facing a street running in a westerly direction shall carry an address indicating its position either north or south of the east west base line and its position west of the north south base line.
- (e) Properties on diagonal or curvilinear streets shall be numbered the same as or similarly to, properties on northerly or southerly streets if the diagonal or curvilinear streets run more from the north to the south. The same shall hold for diagonal or curvilinear streets which run more from the east to the west in that properties on such streets shall be numbered the same as, or similarly to, properties on westerly streets.
- (f) Where the general direction of a diagonal or curvilinear street has a deviation of exactly 45 degrees, the direction of the street shall be considered as being northerly or southerly.

(4) **SYSTEM.** A system of invisible rectangular blocks shall be established as a central grid in the following manner conforming to the recommended uniform address system.

- (a) The established section lines shall form a basis for the block system, and in a westerly direction from the eastern boundary of the County, the first 6 sections, extending through the Towns of Menomonee, Brookfield, New Berlin and Muskego, shall be divided into 16 blocks each. These invisible block lines shall have numerical designations of from "124" at the County line, to "200" at the western Town lines of Muskego, New Berlin, Brookfield and Menomonee. Westward through the remaining towns, the sections shall be divided into 10 blocks each and the block lines shall have numerical designations of from "200" to "400", the latter being at the west edge of the County.
- (b) In a northerly direction from the east west base line, the first and second rows of sections shall be

divided into 11 blocks each, the third row into 8 blocks and the fourth row into 9 blocks. >From and including the fifth row northward to the north County line, the sections shall be divided into 8 blocks each. These invisible block lines shall have numerical designations of from "1", the base line, to "96" at the north County line.

- (c) In a southerly direction from the east west base line the first row of sections shall be divided into 13 blocks and the second row into 9 blocks. From and including the third row southward to the south County line the sections shall be divided into 8 blocks each. These invisible block lines shall have the numerical designations of from "1", the base line, to "111" at the south County line.

(5) NUMBERS.

- (a) One hundred numbers shall be assigned to each invisible block, regardless of discrepancies in block sizes. Properties on the north and east sides of streets shall bear even numbers and properties on the south and west sides of streets shall bear odd numbers.
- (b) The number assigned to each property shall be composed of 2 parts. The first part, or street designation, shall be composed of a directional letter, "N", "S" or "W" followed by the appropriate block line.
- (c) The second part of the property number, the block and house designation, shall be composed of directional letter followed by the number of the appropriate block line plus 2 additional digits indicating the relative position of the property in the block.
- (d) For a block which lies south of the east west base line, the designation of the block shall be by the block line numbers of its north and its east boundaries. For a block which lies north of the east west base line, the designation of the block shall be by the block line numbers of its south and its east boundaries.
- (e) Properties and street intersections contained within any block shall bear numbers and directional letters related to the point of intersection of the block boundary lines stipulated in the paragraph next above.

(6) POINT OF DETERMINATION. The point from which any property shall be assigned its proper number shall be determined as follows:

- (a) Where land has been subdivided or platted into lots, the center point of the frontage line of each parcel shall be the point of determination.
- (b) In cases of farm residences or other residences or business places situated on large acreage or away from other development, the point of determination shall be the intersection of the center line of the principal driveway with the street or highway right-of-way line.
- (c) The proper number shall be determined and assigned by the Building Inspector.

(7) STREET NAMES.

- (a) A list shall be compiled by the Building Inspector of all existing street names in the Town and no future street shall be given a name which duplicates or approximates an existing name. Cooperation shall be sought with all towns and municipalities in the County to the end that duplication of street names shall be minimized.
- (b) The Town shall cooperate with neighboring towns, villages and cities to the end that streets which are continuous from one municipality or town to another municipality or town may have but one name when such single name would be desirable.
- (c) The Town Board may accept or reject proposed names of new streets and, where there is clearly a conflict or duplication in existing names, may direct the changing of one or more such names so that conflict or duplication may be minimized. The Board, if it sees fit, may hold public hearings at which interested property owners may express their views concerning the naming or renaming of

a street or streets.

(8) PLAT BOOK.

- (a) The Clerk shall inform any person inquiring of the numbers and approved street names belonging to any property to the degree records will allow, with the Building Inspector making the final determination.
- (b) Within 30 days after the final approval of any new subdivision or other division of land, the Building Inspector shall assign addresses to each new building site. Records shall be kept of the assignments and a copy shall be provided for the developer at his request.

(9) INSTALLATION OF NUMBERS.

- (a) (Repeal & Rec. 99-484) When each residence and place of business has been assigned its respective number, the owner, occupant or agent shall install or cause to be installed those numbers on the premises along the side of the street on which the home sits; in a place clearly visible from the road.
- (b) Numbers shall be installed within 30 days from date of assignment or from the date of initial occupancy.
- (c) (Repeal & Rec. #99-484) The minimum size of the numbers assigned under the uniform address system to be installed shall be 2¼" wide and 3½" high. The letters and numbers assigned shall be black on a white or a reflective background. The numbers shall be installed at a place clearly visible from the traveled portion of the road. Mailboxes may serve to display the house numbers if they are located within 10 ft of the driveway and provided there is no other mailbox adjacent. House numbers displayed on mailboxes must be placed at a height between 2' and 8' above the finished grade at the point of installation. In instances where more than one mail box exists house numbers must also be placed on each individual property as prescribed by the ordinance.

One set of numbers will be sufficient and should be placed parallel to the road. If the house numbers are perpendicular to the road, the numbers must be visible from the travel direction immediately adjacent to the numbers. The owner, occupant, or agent shall install or cause to be installed those numbers on the premises on the side of the street on which the home sits; in a place clearly visible from the road; no more than 25 feet from the edge of the road pavement, within 10 feet of either side edge of the driveway; and between 2' and 8' above the finished grade at the point of installation. Homes and businesses sharing a common driveway or located on a private road shall have numbers at the intersection with the public road, at each split, fork or intersection thereafter, and on the property itself as specified in this ordinance.

(10) NUMBERS REQUIRED. Whenever any residence or place of business shall be erected in the Town after the work of establishing a uniform address system has been completed, the owner shall at the time of obtaining a building permit procure the correct number and street name from the Building Inspector and within 30 days thereafter install the number on the building or premises as provided in sub. (9).

(11) VIOLATION. (Repeal & Rec. 99-484) If the owner, occupant, or agent of any residence or place of business shall neglect to comply with the requirements of this ordinance, the Law Enforcement Officer, Building Inspector/Code Enforcement Officer or designated representative of the fire department may issue a notice of non-compliance to the owner, occupant or agent. If the owner, occupant or agent fails to correct the non-compliance within (30) days, the Law Enforcement Officer may issue a citation and the owner, occupant or agent shall be subject to the penalties of Chapter 25 of the Town Code.

8.17 SOLID AND HAZARDOUS WASTE SITING.

(1) The "Siting resolution" authorized by AB-936 is hereby approved.

(2) A Siting Board is hereby established, consisting of 4 members appointed by the Town Board, with no more than 2 elected officials. The Board shall exercise all the authority and obligations granted by AB-936.

8.18 SANITARY SEWER REGULATIONS, FOXWOOD ESTATES SUBDIVISION (Rep. and Recr. Ord. 2007-005)

(1) INTRODUCTION AND GENERAL PROVISIONS

- (a) INTRODUCTION. This Ordinance regulates the use of public and private sewers and drains, connections to the public sewer system, discharge of septage into the public sewerage system, and the discharge of waters and wastes into the public sewerage systems within the Foxwood Estates Subdivision within the Town of Delafield. It also provides for and explains the method used for levying and collecting wastewater treatment services charges, sets uniform requirements for discharges into the wastewater collection and treatment systems and enables the said Municipality to comply with administrative provisions, and other discharge criteria which are required or authorized by the State of Wisconsin or Federal law. Its intent is to derive the maximum public benefit by regulating the characteristics of wastewater discharged into the sewerage system.
- (b) GENERAL PROVISIONS.
- i. This Ordinance provides a means for regulating the use of the public sewers, effectuating connections thereto, determining wastewater volumes, constituents and characteristics, the setting of charges and fees, and the issuing of permits to certain users. Revenues derived from the application of this Ordinance shall be used to defray the costs of operating and maintaining the wastewater collection and treatment systems and to provide sufficient funds for capital outlay, debt service costs and capital improvements. The charges and fees herein have been established pursuant to requirements of the Wisconsin Statutes.
 - ii. This Ordinance shall supersede any previous Ordinances, Rules or Regulations of the Municipality relating to the subject matter hereof; and shall repeal all parts thereof that may be inconsistent with this Ordinance. If there is any conflict between this Ordinance and the inter-municipal agreement between the Town and the Village of Hartland concerning the provision of sanitary sewer service for the Foxwood Estates Subdivision, the terms of said agreement shall control.
- (c) LEGAL AUTHORITY. This Ordinance is enacted pursuant to the power and authority conferred by Section 66.0821, Stats., as amended from time to time.

(2) DEFINITIONS

Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

- (a) APPROVING AUTHORITY of the Municipality shall mean its Town Board or its duly authorized committee, agent, or representative.
- (b) BUILDING DRAIN shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building or structure and conveys it to the Building Sewer.
- (c) BUILDING SEWER shall mean the pipe extension beginning at the outside of the inner face of the building wall, to a point of connection with the public sewer.
- (d) CARBONACEOUS BIOCHEMICAL OXYGEN DEMAND (CBOD) shall mean the quantity of oxygen used in the biochemical degradation of organic material in five (5) days at 20EC when the oxidation of reduced forms of nitrogen is prevented by the addition of an inhibitor. This analytical procedure shall be performed in accordance with Standard Methods.
- (e) COMPATIBLE POLLUTANTS shall mean carbonaceous biochemical oxygen demand, suspended solids, total kjeldahl nitrogen, plus additional pollutants identified in the WPDES permit for the publicly owned treatment works receiving the pollutant if such works were designed to treat such additional pollutants to a substantial degree.

- (f) FLOATABLE OIL shall mean oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater or septage shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection of treatment system.
- (g) GARBAGE shall mean the residue from the preparation, cooking, and dispensing of food, and from the handling, storage, and sale of food products and produce.
- (h) GROUND GARBAGE shall mean the residue from the preparation, cooking, and dispensing of food that has been shredded to such degree that all particulates will be no greater than one-half (1/2) inch in any dimension and will be carried freely in suspension under normal flow conditions in sewers.
- (i) INCOMPATIBLE POLLUTANTS OR WASTEWATER shall mean wastewater or septage with pollutants of such a strength that will adversely affect or disrupt the wastewater treatment processes or effluent quality or sludge quality if discharged to the sewerage system facility.
- (j) INDUSTRIAL WASTE shall mean the wastewater from an industrial process, trade, or business, as distinct from sanitary sewage, including cooling water and the discharge from sewage pretreatment facilities.
- (k) MAY is permissible.
- (l) DEL-HART ORDINANCE shall mean the Sewer Use & User Charge Ordinance of the Delafield-Hartland Water Pollution Control Commission (herein the "Del-Hart Commission") effective February 27, 2007, and any amendments thereto or restatements thereof.
- (m) MUNICIPAL WASTEWATER shall mean the wastewater of a municipality, including that of the Municipality. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residential, commercial buildings, industrial plants and institutions, together with any groundwater, surface water, and storm water that may have inadvertently entered the sewerage system of the municipality.
- (n) MUNICIPALITY shall mean the Town of Delafield, a Wisconsin municipality.
- (o) NATURAL OUTLET shall mean any outlet, including storm sewers, into a water course, pond, ditch, lake or other body of surface water or groundwater.
- (p) PARTS PER MILLION shall mean a weight-to-weight ratio; the parts per million value multiplied by the factor 8.34 shall be equivalent to pounds per million gallons of water.
- (q) PERSON shall mean any and all persons, including any individual, firm, company, municipal or private corporation, association, society, institution, enterprise, government agency, or other entity.
- (r) pH shall mean the logarithm of the reciprocal of hydrogen ion concentration. The concentration is the weight of hydrogen ions, in grams per liter of solution. Neutral water, for example, has a pH value of 7 and a hydrogen ion concentration of 10^{-7} .
- (s) PUBLIC SEWER shall mean any sewer owned or provided by or subject to the jurisdiction of the Municipality, the Del-Hart Commission or any other municipality.
- (t) SANITARY SEWAGE shall mean a combination of liquid and water-carried wastes discharged from toilets and/or sanitary plumbing facilities, together with such ground, surface, and storm waters as may have inadvertently entered the sewerage system.
- (u) SANITARY SEWER shall mean a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with small quantities of ground, storm, and surface waters that are not admitted intentionally.

- (v) SEPTAGE shall mean the wastewater or contents of septic or holding tanks, dosing chambers, grease interceptors, seepage beds, seepage pits, seepage trenches, privies or portable restrooms.
- (w) SEWER SERVICE CHARGE is a service charge levied on users of the wastewater collection and treatment facilities for payment of use-related capital expenses as well as the operation and maintenance costs, including replacement costs, of said facilities.
- (x) SEWER SYSTEM means the public sanitary sewers within a sewerage system. The facilities which convey wastewater from individual structures, from private property to the public sanitary sewer, or its equivalent, are specifically excluded from the definition of "sewer system"; except that pumping units and pressurized lines for individual structures or groups of structures may be included as part of a "sewer system" when such units are owned and maintained by the Municipality or the Village of Hartland. For example, a Building Sewer is not part of the sewer system.
- (y) SEWERAGE SYSTEM means all structures, conduits and pipes, by which sewage is collected, treated, and disposed of, except plumbing inside and in connection with buildings served, and service pipes, from building to street main, i.e., a Building Sewer.
- (z) "SHALL" is mandatory.
- (aa) SLUG LOAD shall mean any substance released at a discharge rate and/or concentration which causes interference to wastewater treatment processes or plugging or surcharging of the sewer system.
- (bb) STATS. shall mean the Wisconsin Statutes in effect from time to time.
- (cc) STANDARD METHODS shall mean the examination and analytical procedures set forth in the most recent edition of "Standard Methods for the Examination of Water, Sewage, and Industrial Wastes" published jointly by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation and is in compliance with Federal Regulations 40 CFR 136, "Guidelines Establishing Test Procedures for Analysis of Pollutants," all as amended from time to time.
- (dd) STORM DRAIN (sometimes termed "STORM SEWER") shall mean drain or sewer for conveying surface water, groundwater, and subsurface water other than polluted water from any source.
- (ee) STORM WATER RUNOFF shall mean that portion of the rainfall that is collected and drained into the storm sewers.
- (ff) SUSPENDED SOLIDS shall mean solids that either float on the surface of, or are in suspension in, water, wastewater, septage, or other liquids, and that are removable by laboratory filtering as prescribed in "Standard Methods" and is referred to as non-filterable residue.
- (gg) TOTAL KJELDAHL NITROGEN (TKN) shall mean the quantity of organic nitrogen and ammonia as determined in accordance with Standard Methods.
- (hh) TOTAL PHOSPHOROUS (TP) shall mean the quantity of total phosphorous as determined in accordance with the Standard Methods.
- (ii) WASTEWATER FACILITIES shall mean the structures, equipment, and processes required to collect, carry away, store, and treat domestic and industrial waste and septage and dispose of the effluent and sludge.
- (jj) WASTEWATER TREATMENT WORKS shall mean an arrangement of devices and structures for treating wastewater, septage, industrial waste, and sludge. Sometimes use is synonymous with waste treatment facilities.

- (kk) WATERCOURSE shall mean a natural or artificial channel for the passage of water, either continuously or intermittently.

(3) MANAGEMENT, OPERATION, AND CONTROL

- (a) MANAGEMENT. The management, operation, and control of the sewer system for the Municipality is vested in the Town Board and the Village Board of the Village of Hartland pursuant to the inter-municipal agreement between the Village of Hartland and the Town of Delafield concerning sanitary sewer service for the Foxwood Estates Subdivision on file in the office of the Town Clerk.
- (b) OWNER'S MAINTENANCE OF BUILDING SEWER. The owner of property abutting a public sewer shall maintain sewer service from the public sewer main to the structure or building on the owner's property, including all controls between the same, without expense to the Municipality, except when they are damaged as a result of negligence or carelessness on the part of the Municipality. Without intending to limit the generality of the foregoing, the owner has the sole responsibility for the repair and maintenance of all Building Sewers; and the ownership thereof shall at all times be vested in such property owner. All sewer services must be maintained free of defective conditions, by and at the expense of the owner or occupant of the property. When any sewer service is to be re-laid and there are two or more buildings on such service, each building shall be disconnected from such service and a new sewer service shall be installed for each building. In the event of any obstruction of, damage to or repair of a Building Sewer, the same shall be the responsibility of the property owner, except as provided for in Section 4(f) hereof or as otherwise provided for herein.
- (c) TITLE TO REAL ESTATE AND PERSONAL PROPERTY. All property, real, personal, and mixed, including but not limited to easements, acquired for the construction of the Municipality's sewer system, and all plans, specifications, diagrams, papers, books and records connected therewith, and all buildings, machinery, and fixtures pertaining thereto, shall be the property of and titled in the name of the Village of Hartland in accordance with the inter-municipal agreement between the Town and the Village of Hartland concerning sanitary sewer service for the Foxwood Estates Subdivision .
- (d) NO LIMITATION. Nothing contained in this Ordinance shall be construed as limiting the power and authority of the Municipality as provided for by applicable Wisconsin Statutes; and the Municipality shall have all rights and authority as provided for by law.

(4) ADMINISTRATIVE RULES AND REGULATIONS

The following rules, regulations and ordinances for the regulation of licensed plumbers, sewer users, property owners and others, are hereby adopted and established:

- (a) GENERAL PROVISIONS
- i. Agreement to Rules and Regulation. All persons now receiving sewerage service from the Municipality or who may hereafter make application for such service or who otherwise receive such service, shall be considered as having agreed to be bound by all of the terms and provisions of this Ordinance, as amended from time to time; and such agreement is a condition precedent to the provision of such sewerage service.
 - ii. Application for Service. Every person desiring to connect property, buildings or structures to public sewers shall make application in writing to the Municipality on such forms as are prescribed for that purpose, prior to commencing use of such service. The application must describe fully and truthfully all the wastes which are anticipated to be discharged. If the applicant is not the fee simple owner of the property, the written consent of the owner must accompany the application. Persons connected to the public sewers of the Municipality are referred to herein as "Users." By submitting such an application, all users are deemed to have agreed to be bound by this Ordinance, as amended from time to time. If it appears that the service applied for will not provide adequate service for the contemplated use, the Municipality may reject the application. If the Municipality approves the application, it

shall issue a connection permit as shown on the application. No service shall be provided or application approved without prior payment of all applicable fees.

iii. Application Fee. Where the application for service is for a connection to the Municipality's public sewers, the application shall be accompanied by an Application Fee(s) in an amount to be determined from time to time by the Municipality. Such fee shall cover the cost of processing the application and inspection of the connection. Application Fees may vary in amount between residential users and commercial/industrial users. The payment of this fee shall be in addition to any Connection Fees that may be charged to or on account of new users by the Municipality, the Village of Hartland, or by the Del-Hart Commission.

iv. Inspections. Any connection to the public sewers within the Municipality shall be subject to the prior inspection and approval of the work by an authorized representative of the Municipality and/or the Village of Hartland. No trench or other excavation shall be filled, or any connection completed, without such prior inspection. The applicant requesting the connection shall reimburse the Municipality for all inspection costs incurred, if not previously paid as part of the Application Fee.

v. Disconnection and Refusal of Service. Sewer service may be disconnected or refused for any of the following reasons:

(1) Violation of this Ordinance, as amended from time to time;

(2) Violation of the Del-Hart Ordinance, as amended from time to time;

(3) Failure to pay the Application Fee, any Connection Fee or delinquent sewer service charges of the user.

(4) Violation of the inter-municipal agreement between the Town and the Village of Hartland concerning sanitary sewer service for the Foxwood Estates Subdivision.

vi. Disconnection for Delinquent Accounts or Where a Dangerous Condition Exists. A bill for service is delinquent if unpaid after the due date shown on the bill. The Municipality may disconnect service for a delinquent bill by giving the user, at least eight calendar days prior to disconnection, a written disconnect notice which may be included in the bill for service. For purposes of this rule, the due date shall not be less than twenty days after issuance of the bill. The Municipality or the Village of Hartland may disconnect without notice where the Village Engineer, Town Engineer, or Del-Hart's Engineer reasonably determines in his or her opinion that that disconnection is necessary to avoid danger to persons or property due to a condition that exists on the property. The Municipality may thereafter deny reconnection of service for as long as the condition exists.

vii. Denial of Service Due to Non-Compliance or Dangerous or Unsafe Conditions. Service may be denied to any user for failure to comply with the applicable requirements of this Ordinance or if the Village Engineer, or the Village Engineer's designee, has reasonably determined that a dangerous or unsafe condition exists on the user's property.

(b) PLUMBERS. No plumber, pipe fitter, or other person will be permitted to do any plumbing or pipe fitting work in connection with the sewer system without first receiving a license from the State of Wisconsin and obtaining permission from the Municipality in which the work is to be performed. All service connections to the sewer main shall comply with the State plumbing code, as amended.

(c) MANDATORY CONNECTIONS

i. Within that portion of the Foxwood Estates Subdivision receiving sanitary sewer service from the Village of Hartland, the owner of each parcel of land adjacent to a public sewer main on which there exists a building used or usable for human habitation or in a block through which such system is extended, shall connect to the

sewer system within 365 days (one year) of notice in writing from the Municipality. Upon failure to do so, the Municipality may cause such connection to be made and bill the property owner for all such costs. If such costs are not paid within thirty (30) days, such cost shall constitute a special tax lien against the property, in the manner provided for by law. However, the owner may within thirty (30) days after the completion of the work file a written election with the Municipality stating that the owner cannot pay such amount in one sum and ask that the sum be levied in five (5) or less equal annual installments. The amount shall be so collected with interest at a rate not to exceed fifteen percent (15%) per annum from the date of completion of the work, all as determined by the Municipality. The unpaid balance shall constitute a special tax lien, all pursuant to sec. 281.45, Stats., as amended.

- ii. This Ordinance ordains that, where sanitary sewer service is available within the Foxwood Estates Subdivision pursuant to inter-municipal agreement between the Town and the Village of Hartland concerning sanitary sewer service for the Foxwood Estates Subdivision, any such failure to connect to such sewer system is contrary to the minimum health standards of the Municipality and fails to assure preservation of public health, welfare, comfort, and safety; and that such failure constitutes a public nuisance under sec. 823.02, Stats., as amended, subject to abatement as provided for therein.
- (d) BUILDING SEWER CONNECTION EXPENSE. Persons attaching to a public sewer shall have the Building Sewer, or lateral, installed at their own cost and expense.
- (e) TAP PERMITS. After sewer connections have been introduced into any building or upon any premises, no plumber shall make any alterations, extensions, or attachments, unless the party ordering such tapping or other work exhibits the proper permit for the same from the Municipality.
- (f) OBSTRUCTION OF BUILDING SEWERS IN PUBLIC RIGHT OF WAYS. In the event of any blockage, damage or break in any Building Sewer, which occurs within a public street, alley, highway, or other public right of way, the Village of Hartland shall have the exclusive right and option to repair the Building Sewer within said street, alley, highway, or right of way. In such event, the owner of the Building Sewer shall promptly reimburse the Municipality and/or the Village of Hartland for all costs so incurred. If not so reimbursed, the same shall be added to the owner's sewer service charges and collected in the same manner as such charges are so collected.
- (g) BACKFLOW PREVENTER. All floor drains shall have a backflow prevention valve installed at the owner's expense.
- (h) USER USE ONLY. No user shall allow other persons or other services to connect to the sewer system through their lateral or Building Sewer.
- (i) USER TO PERMIT INSPECTION. Every user shall permit the Municipality, the Village of Hartland, or its duly authorized agent, at all reasonable times, to enter their premises or building to examine the pipes and fixtures, and the manner in which the drains, and sewer connections operate; and the user must at all times, frankly and without concealment, answer all questions put to them relative to its use, all in accordance with this Ordinance and sec. 196.171, Stats., to the extent applicable.
- (j) MUNICIPAL RESPONSIBILITY. It is expressly stipulated that no claim shall be made against the Municipality or its Board members, agents, employees and representatives by reason of the breaking, clogging, stoppage, or freezing of any pipes; nor from any damage arising from repairing mains, making connections or extensions or any other work that may be deemed necessary. The right is hereby reserved to cut off sewer service at any time for the purpose of repairs or any other necessary purpose, any permit granted or regulations to the contrary notwithstanding.
- (k) EXCAVATIONS WITHIN PUBLIC RIGHT OF WAY. Any person excavating in the public right of way shall fully comply with all provisions of Section 8.02 of the Municipal Code.

- (l) TAPPING THE MAINS. Connections to the sewer system, other than Building Sewer connections, shall be done only in accordance with the Del-Hart Ordinance, as amended.
- (m) INSTALLATION OF BUILDING SEWERS. All Building Sewers on private property shall be installed in accordance with State of Wisconsin Administrative Code "Design, Construction, Installation, Supervision, and Inspections of Plumbing," especially, Section ILHR 82.10, "Basic Plumbing Principles," as amended. As required therein, all laterals shall be inspected. The Building Sewer and/or private interceptor main sewer shall be inspected upon completion of placement of the pipe and before backfilling and tested before or after backfilling.
- (n) APPLICATION OF DEL-HART ORDINANCE. Notwithstanding anything to the contrary contained herein, any connection to the public sewers shall be subject to the provisions of the Del-Hart Ordinance, as amended from time to time, to the extent applicable and to the inter-municipal agreement between the Town and the Village of Hartland concerning sanitary sewer service for the Foxwood Estates Subdivision. In the event of any conflict between the provisions of the Del-Hart Ordinance, the more restrictive provision shall control.
- (o) NEW CONNECTIONS. New connections to the Municipality's sewer system will be allowed only if there is available capacity in all of the downstream wastewater collection and treatment facilities of the Municipality and the Del-Hart Commission and such connection is permitted under the Town's inter-municipal agreement with the Village of Hartland concerning sanitary sewer service for the Foxwood Estates Subdivision.

(5) USE OF THE PUBLIC SEWER

- (a) NO CLEAR WATER DISCHARGES. No person shall discharge or cause to be discharged any unpolluted waters such as storm water, ground water, roof rain, subsurface, drainage or collecting water to any sanitary sewer.
- (b) COMPLIANCE WITH THE DEL-HART ORDINANCE. No person shall discharge wastes into a public sewer within the Municipality, except residential wastes in accordance with the provisions of the Del-Hart Ordinance, as amended from time to time.
- (c) NO DISCHARGE TO VIOLATE GENERAL PERMIT FOR BYPASSING. No person shall discharge or cause to be discharged any waters, wastewaters or other substances of any kind or nature that will result in or otherwise cause a violation of any General Permit For Bypassing issued by the Wisconsin Department of Natural Resources and held by the Municipality.

(6) PUBLIC SEWER MAIN EXTENSIONS

- (a) APPLICATION AND APPROVAL. The extension of public sewer mains to serve new customers/users is subject to the prior review and approval of the Municipality, the Village of Hartland, and any other governmental agency having appropriate jurisdiction thereof. Any person seeking to develop real property and requiring sewer service in connection with such development, shall make application to the Municipality for a public sewer main extension, if so required in order to serve such development. Such application shall be in writing and shall set forth the following information:
 - i. Name of development and the legal description of the property involved.
 - ii. Plat map or certified survey map or other map showing street layout and lot sizes.

- iii. Zoning of the property.
- iv. Proposed plans and specifications for the sewers.
- v. Name and address of consulting engineer.
- vi. Number of housing units and/or other units to be constructed.
- vii. Such additional information as the Municipality may require.

(b) CONDITIONS OF APPROVAL. The Municipality, subject to its inter-municipal agreement with the Village of Hartland concerning sanitary sewer service for the Foxwood Estates Subdivision, shall have the discretion to approve or disapprove the requested public sewer main extensions. In granting such approval, the Municipality may condition its approval upon compliance with:

- i. Any applicable ordinances of the Municipality, the Del-Hart Commission or Waukesha County.
- ii. Any applicable statute, rules, orders, or codes of the State of Wisconsin.
- iii. The preparation of plans and specifications for the sewer main extension, subject to the approval of the Municipality and its consulting engineer.
- iv. The applicant making and installing the public sewer main extension at his/her/its sole cost and expense or otherwise providing a surety bond or other security to ensure that the main will be so constructed within a reasonable period of time.
- v. The dedication of such rights of way, easements and sewerage facilities as the Municipality may reasonably require.
- vi. The payment of all costs and expenses incurred or to be incurred by the Municipality in connection with the review and approval of such sewer extension, including but not limited to engineers fees, attorneys fees, inspection fees and other similar costs and expenses.
- vii. The payment of any applicable Connection Fees due or to become due pursuant to the inter-municipal agreement between the Town and the Village of Hartland concerning sanitary sewer service for the Foxwood Estates Subdivision.
- viii. Any restriction or condition set forth in the inter-municipal agreement between the Town and the village of Hartland concerning sanitary sewer service for the Foxwood Estates Subdivision.
- ix. Any other condition determined by the Municipality to be fair and reasonable in order to protect the interest of the Municipality in connection with the proposed development.

(c) CONTRACT FOR SEWER IMPROVEMENTS. The Municipality may require the person filing an application pursuant to Section 6(a) hereof, to enter into a written development agreement with the Municipality, as a condition of the approval of the sewer main extension. Such agreement shall define the scope of the work, the obligations of the applicant to construct the sewer facilities, the requirement of security for performance of the applicant's obligations set forth therein, and such other matters as the Municipality may reasonably determine. The applicant shall reimburse the Municipality for all fees and costs as provided for in Section 3.08 of the Town ordinances.

(7) SEWER USER CHARGE SYSTEM

Sewer service charges, costs, and fees to each user shall be based on the inter-municipal agreement between the Municipality and the Village of Hartland concerning sanitary sewer service for the Foxwood Estates Subdivision.

(8) CONTROL OF INDUSTRIAL WASTES

(a) GENERAL

- i. An "Industrial Discharge" or "Industrial Waste" shall have the same meaning as provided for in the Del-Hart Ordinance, as amended from time to time.
- ii. No person shall discharge or cause discharge of Industrial Waste into the public sewers of the Municipality.

(b) DISCHARGE OF HOLDING TANK WASTE

- i. GENERAL. For purposes of this Section, the terms "Holding Tank Waste" and "Licensed Disposer" shall have the same meaning as provided for in the Del-Hart Ordinance, as amended from time to time.
- ii. PROHIBITION OF DISCHARGE INTO THE MUNICIPALITY'S PUBLIC SEWERS. No person, including a Licensed Disposer, shall discharge any Holding Tank Waste, or any other similar waste, into any manhole or other opening in a public sewer owned or maintained by the Municipality. Instead, all such discharges of Holding Tank Wastes shall be made pursuant to the Del-Hart Ordinance, as amended from time to time.

(10) BILLING AND PAYMENT OF SEWER SERVICE CHARGES

- (a) CALCULATION. Sewer Service Charges that are to be assessed to users shall be computed by the Municipality according to the rates and methodology presented in Chapter VII of this Ordinance.
- (b) BILLING. Sewer Service Charges shall be billed to each user as provided for in the inter-municipal agreement between the Town and the Village of Hartland concerning sanitary sewer service for the Foxwood Estates Subdivision.
- (c) PENALTY FOR DELINQUENT PAYMENTS. A penalty equal to one and one-half (1.5%) percent per month of the delinquent amount shown on any bill for services, shall be added to all bills not paid by the date fixed therein for final payment. An additional penalty of ten (10%) shall be assessed and delinquent bills placed on the tax roll pursuant to the provisions set forth in Section 66.0809(3), Wis. Stats.
- (d) REMEDIES FOR FAILURE TO MAKE PAYMENTS. The Municipality may direct that unpaid Sewer Service Charges, Connection Fees, or other charges due from any person or user, shall be collected and taxed and shall be a lien upon the property served in the manner provided for in Sections 66.0809 and 66.0821(4) (d), Stats., as amended from time to time, or the Municipality may utilize any other remedy available to it under Wisconsin law..
- (e) OBLIGATION FOR PAYMENT. The obligation for payment of Sewer Service Charges, Connection Fees or other charges due the Municipality shall be a joint and several obligation of the user and property owner, where the user and property owner are not the same person. To the end that there may be attempts at avoidance of payment of such charges and fees by non-property owner users, and to overcome the same, the Municipality or Village of Hartland may send the bill for such a user, in care of the property owner.
- (f) REMEDIES CUMULATIVE. All remedies provided for in this Ordinance are distinct and cumulative to any other right or remedy under this Ordinance or any other Ordinance of the Municipality or afforded by law or equity; and may be exercised by the Municipality concurrently, independently, or successively.

(11) CONNECTION FEES

For each connection of a Building Sewer to a public sewer within the Foxwood Estates Subdivision, there shall be paid a Connection Fee as determined pursuant to inter-municipal agreement between the Town and the Village of Hartland concerning sanitary sewer service for the Foxwood Estates Subdivision. The failure to pay any Connection Fee is a violation of this Ordinance; and this Municipality may pursue all rights and remedies provided for herein.

(12) VIOLATIONS, ABATEMENT PROCEDURES AND PENALTIES

- (a) VIOLATIONS CONSTITUTING PUBLIC NUISANCE. A violation (other than the failure to pay Sewer Service Charges or other fees or costs due under this Ordinance) of any provision of this Ordinance or any other rule or order of the Municipality is hereby declared to be a public nuisance.
- (b) DAMAGE TO MUNICIPALITY'S PROPERTY. No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure of equipment which is a part of the Municipality's or Village of Hartland's sewerage system. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct or criminal damage to property as the case may be.
- (c) ENFORCEMENT. The Municipality shall have the right to enforce the provisions of this Section and shall make periodic inspections and inspections upon complaint to insure that such provisions are not violated. No action shall be taken under this Section to abate a public nuisance unless the Municipality and/or the Village of Hartland shall have inspected or caused to be inspected the premises where the nuisance is alleged to exist and shall have satisfied itself that a nuisance does in fact exist.
- (d) OTHER METHODS NOT EXCLUDED. Nothing in this Ordinance shall be construed as prohibiting the abatement of public nuisances by the Municipality or its officials in accordance with the laws of the State of Wisconsin.
- (e) COURT ORDER. Except where otherwise permitted under applicable Wisconsin law, the Municipality shall not use force to obtain access to private property to abate a public nuisance, but shall request permission to enter upon private property if such premises are occupied, and, if such permission is denied, shall apply to any court having jurisdiction for an order assisting the abatement of public nuisance.
- (f) COST OF ABATEMENT. In addition to any other penalty imposed by this Chapter for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the Municipality shall be collected as a debt from the owner, occupant, or person causing, permitting, or maintaining the nuisance, and such cost shall be assessed against the real estate as a special charge. For purposes hereof, costs shall include but not be limited to actual attorneys' fees and court costs.
- (g) Section 13.9 CONTINUED VIOLATIONS. Any person who shall continue any violation beyond the aforesaid notice time limit provided, shall be subject to penalties as provided in § 25.04 of this Code and shall be liable for any expense, loss or damage occasioned the Town, commission, or others by reason of such violation, including any costs in connection with repairing damages to the wastewater facilities or any downstream user or facilities damaged as a result of a prohibited discharge or any violation of this section.
- (h) ACCIDENTAL DISCHARGE. Any person found to be responsible for accidentally allowing a deleterious discharge into the sewerage system which causes damage to the sewerage system and/or a receiving body of water (e.g., lake, river, stream, etc.) shall, in addition to a fine, pay the amount to cover all damages, both of which will be determined by the Municipality or other governmental authority having appropriate jurisdictions.

- (i) ACCIDENTAL DISCHARGE REPORTING. Any person responsible for an accidental discharge that may have a detrimental impact on the sewerage system, shall immediately report the nature and amount of the discharge to the Del-Hart Commission.
- (j) LIABILITY FOR LOSSES. Any person violating any provision of this Ordinance shall become liable to the Municipality for any expense, attorney's fees, costs, engineering fees, loss, or damage occasioned by reason of such violation which the Municipality may suffer as a result thereof. Without intent to limit the generality of the foregoing, the Municipality shall have the right of recovery from all such persons, any expense incurred by the Municipality for the repair or replacement of any part of the public sewerage system damaged in any manner by any person by the performance of any work under its control, or by any negligent acts.

(13) SEPTIC SYSTEMS

The maintenance and use of a septic tank or other private sewerage disposal system by any owner of land located within the Foxwood Estates Subdivision serviced by the Village of Hartland pursuant to the inter-municipal agreement between the Town and the Village of Hartland concerning sanitary sewer service for the Foxwood Estates Subdivision, is hereby declared to be a public nuisance and a health hazard. Such nuisance and hazard shall be abated; and damages and costs recovered therefor in accordance with Section 823.02 of the Wisconsin Statutes.

8.20 PENALTY. Any person who shall violate any provision of this chapter or any order, rule or regulation made hereunder shall be subject to a penalty as provided in §25.04 of this General Code.