



A PERFECT ENVIRONMENT

Residential Recreational Responsible

Chair
Ron Troy
Supervisors
Edward Kranick
Steve Michels
Joe Woelfle
Magalie Miller
Clerk/Treasurer
Dan Green

**TOWN OF DELAFIELD BOARD OF SUPERVISORS MEETING
TUESDAY, APRIL 11, 2023**

6:30 PM

**DELAFIELD TOWN HALL – W302 N1254 MAPLE AVENUE, DELAFIELD, WI
AGENDA**

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Citizen Comments: Public comments from citizens regarding items on, or not on the agenda. The Board may not engage in a discussion with the citizen making the comments. Individual presentations are limited to three minutes and citizens shall follow the rules set forth in Section 2.04(1)(d) of the Town Code.
5. Approval of Minutes:
 - a. March 28, 2023, Town Board Minutes
6. Action on vouchers submitted for payment:
 - a. Report on budget sub-accounts and action to amend 2022 and 2023 budget
 - b. 1) Accounts payable; 2) Payroll
7. Communications (for discussion and possible action)
8. Unfinished Business: None
9. New Business
 - a. Discussion and possible action on the adoption of Ordinance 2023-01, an ordinance to repeal and re-create Section 8.03 of the Town of Delafield Town Code concerning street excavations and above-ground installations in the public right-of-way.
 - b. Discussion and possible action on the awarding of a construction contract for the 2023 Road Improvement Project.
 - c. Discussion and possible action on the adoption of Resolution 23-661, a resolution adopting a municipal fine schedule.
10. Announcements and Planning items
 - a. Annual Meeting of the Board of Electors – Tuesday, April 18, 2023 @ 6:30 PM
 - b. Town Board – Tuesday, April 25, 2023 @ 6:30 PM
 - c. Plan Commission – Tuesday, May 2, 2023 @ 6:30 PM
11. Adjournment

Dan Green
Town of Delafield Clerk/Treasurer

PLEASE NOTE:

- ✓ It is possible that action will be taken on any of the items on the agenda and that the agenda may be discussed in any order. It is also possible that a quorum of other governmental bodies of the municipality may be in attendance at the above-stated meeting to gather information; no action will be taken by any governmental body at the above-stated meeting other than the governmental body specifically referred to above in this notice.
- ✓ Also, upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information or to request this service, contact Town Clerk Dan Green (262) 646-2398.

**TOWN OF DELAFIELD BOARD OF SUPERVISORS MEETING
MARCH 28, 2023 @ 6:30 PM**

Video Link:

First order of business: Call to Order

Chairman Troy called the meeting to order at 6:30 p.m.

Second order of business: Pledge of Allegiance

Third order of business: Roll Call

Present: Supervisor Kranick, Supervisor Woelfle, Supervisor Michels, and Chairperson Troy. Also present was Administrator Dan Green.

Excused: Supervisor Miller.

Fourth order of business: Citizen Comments: None

Fifth order of business:

- A. Approval of the March 14, 2023, Town Board Minutes

Motion by Supervisor Woelfle to approve the March 14, 2023, minutes. Seconded by Supervisor Kranick. Motion passed 4-0.

Sixth order of Business: Action on vouchers submitted for payment:

- A. Report on budget sub-accounts and action to amend 2022 or 2023 budget.

Motion by Supervisor Kranick to approve the following budget amendment increases:

- *General Fund Expenditure accounts 10-52100-298 by \$1,382, account 10-52300-298 by \$66,057 and account 10-52400-299 by 13,370.*
- *General Fund Expenditure account 10-55300-392 by \$21,520.*
- *General Fund Expenditure account 10-53310-810 by \$251,570.*
- *Debt Service accounts 30-58100-690 by \$50,095, and 30-58100-610 by \$2,614,999.*
- *Impact Fee Fund account 23-57620-820 by \$116,833.*

Seconded by Supervisor Michels. Motion passed 4-0.

- B.1) Accounts payable; 2) Payroll

Motion by Supervisor Kranick to approve payment of checks #66583 - #66585 and checks #66588 - #66624 in the amount of \$88,709.03, and payrolls dated March 31, 2023, in the amount of \$17,382.92. Seconded by Supervisor Woelfle. Motion passed 4-0.

Seventh order of Business: Communications

Eighth order of Business: Unfinished Business:

Ninth order of Business: New Business:

- a. Discussion and possible action on the recommendation from the Plan Commission to approve the request from David J. French Revocable Trust of 1991, Kathy Sawyer-Gutenkunst, agent, for a Certified Survey Map to combine two lots into one lot at W297 N2910 Oakwood Grove Road.

Engineer Barbeau stated there are two 60-foot lots they are combining into one. There is a house on the north lot, and a driveway on the south lot. They will combine the lot to eliminate the line in between. The applicant has not stated what they plan to do with the lot. This was approved unanimously by the plan commission.

Motion by Supervisor Kranick to approve the CSM dated September 8, 2022, subject to satisfaction of any outstanding review comments from the Village of Hartland and Waukesha County Department of Land Use prior to the Town executing the document. Seconded by Supervisor Michels. Motion passed 4-0.

- b. Discussion and possible action on the recommendation to approve Ordinance 2023-08, an ordinance to amend the Town of Delafield zoning map from A-1 Agricultural District to A-3 Suburban Home District for the vacant property located south of W334 S188 Cushing Park Road. Tax Key No. DELT 0841-031-002.

Engineer Barbeau explained this property is on Cushing Park Road south of Abitz Road. There were a number of lots created under A-1 zoning which requires 40 acre lots. If owners want to do something with their particular lot they can apply for a rezone. They are asking to rezone to A-3 which is a 2-acre minimum. The north lot adjacent is A-3. The south lot is A-1 and across the street is A-1 PUD. There are no other conditions associated with the rezone, and the Plan Commission approved unanimously. The lots to the south are legal, non-conforming. The A-1 zoning requires 95% open space, compared to 85% in A-3.

Motion by Supervisor Kranick to adopt Ordinance 2023-08, an ordinance to amend the Town of Delafield zoning map from A-1 Agricultural District to A-3 Suburban Home District for the vacant property located south of W334 S188 Cushing Park Road. Seconded by Supervisor Michels. Motion passed 4-0.

- c. Discussion and possible action on the adoption of Ordinance 2023-03, an ordinance to create Chapter 11 of the Town of Delafield Municipal Code concerning outdoor lighting requirements.

Engineer Barbeau explained that this ordinance codifies commercial lighting in the Town. If a business comes into the Town, currently staff imposes lighting standards the engineer uses in other communities. It is good to have something to fall back on if there is a disagreement. The residential and agricultural land will be dealt with through nuisance laws. It was discussed by the Plan Commission having residential as part of this ordinance, and determined that enforcement would be an issue. This ordinance would apply to B1, B-2, B-3, M-1, P-1, and certain conditional uses. The code requires existing businesses to comply by December 31, 2023. Tim reviewed the standards, following dark sky ordinances, using 2.5 lumens per square foot of hard surface as a standard. Lighting has to be reduced to 25% at night and new businesses are limited to a height of 20 lighting structures. The lighting ordinance passed 6-0 from the Plan Commission.

Supervisor Woelfle asked how this ordinance would be enforced. Engineer Barbeau explained that new construction would require lighting plans to follow. Other parts of the ordinance will be complaint based. There are measurement tools to find lumens for sighting. Staff would base approvals on the lighting manufacturer's specs. If there is a complaint, we would ask owners to prove to us that they are in compliance. He also stated that all businesses to this point are in compliance, except the reduction to 25% at night.

Supervisor Kranick stated it is good to get these standards for staff to follow. He is concerned about existing property owners coming into compliance. He does not want them to come forward saying they are unduly burdened by this ordinance.

Chairman Troy stated he would like to propose moving the date of compliance to June 30, 2024. This gives businesses ample time to work with staff on coming into compliance. He recommended amending 11.03(1) to be changed to June 30, 2024. Engineer Barbeau explained there is a variance provision that would be dealt with directly by the Plan Commission, instead of the Board of Appeals.

Motion by Supervisor Michels to approve Ordinance 2023-03, an ordinance to create Chapter 11 of the Town of Delafield Municipal Code concerning outdoor lighting requirements with an amendment to 11.03(1)(a) to be changed to June 30, 2024. Seconded by Supervisor Kranick. Motion passes 4-0.

Tenth order of Business: Announcements and Planning items

- a. Spring Election – Tuesday, April 4, 2023
- b. Town Board – Tuesday, April 11, 2023 @ 6:30 PM
- c. Annual Meeting of the Board Electors – Tuesday, April 18, 2023 @ 6:30 PM
- d. Town Board – Tuesday, April 25, 2023 @ 6:30 PM

Eleventh order of Business: Adjournment:

Motion by Supervisor Woelfle to adjourn the Tuesday, March 14, 2023, Town Board meeting at 7:06PM. Seconded by Supervisor Michels. Motion passed 4-0.

Respectfully submitted:

Dan Green, CMC/WCMC
Administrator - Town Clerk/Treasurer

ORDINANCE NO.

AN ORDINANCE TO REPEAL AND RE-CREATE SECTION 8.03 OF THE TOWN OF DELAFIELD TOWN CODE CONCERNING STREET EXCAVATIONS AND ABOVE-GROUND INSTALLATIONS IN THE PUBLIC RIGHT-OF-WAY

WHEREAS, on or about July 10, 2019 the State of Wisconsin adopted 2019 Wisconsin Act 14, which created Wisconsin Statutes Section 66.0414 concerning small wireless facilities, and made other changes to State laws concerning telecommunications facilities; and

WHEREAS, as a result of this legislation, the Town of Delafield Town staff have recommended that the Town Code be updated to address these issues in a manner permitted by current State laws; and

WHEREAS, the Town of Delafield Town staff also recommended to update the Town Code related to excavations that are proposed in or under any street, alley, public grounds or sidewalk; and

WHEREAS, wireless facilities in public right-of-way must be treated the same as other utility installations, and therefore the Town Code is proposed to be updated not only for wireless facilities, but for all above-ground installations in the public right-of-way; and

WHEREAS, the Town Board hereby intends to adopt the recommendations of Town staff in this regard; and

WHEREAS, the Town Board of the Town of Delafield deems it necessary to place reasonable restrictions on the public rights-of-way.

NOW THEREFORE, the Town Board of the Town of Delafield, Waukesha County, Wisconsin, does hereby ordain as follows:

SECTION 1: Chapter 8 of the Town of Delafield Town Code entitled, "Public Works," Section 8.03 entitled, "Excavation in Public Right of Way" is hereby repealed and re-created as follows:

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 ~~from the Town~~ 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~~person desiring to make the excavation~~. 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~~ Performance Bond. Applicant shall provide a ~~cash performance~~ bond binding the applicant, ~~as principal, and a separate surety licensed to do business in this State, as surety,~~ 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). ~~set forth from time to time by resolution of the Town Board.~~ 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, ~~during the term of the bond in accordance with the provisions of this chapter and all other laws of any sort,~~ 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. ~~Town maintained highway, street,~~

(b) Indemnity Bond or Certificate of Insurance.

1. Bond. Except as provided in sub. 2. below, the applicant shall provide an ~~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 obstruction or excavation ~~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 an obstruction or excavation ~~highway and street opening~~ permit is issued to the applicant.

2. Insurance. In lieu of the indemnity bond, the applicant may deposit with the Town Board a certificate of insurance showing that the applicant is maintaining in force a bodily injury liability insurance policy or policies subject to limits of not less than \$50,000 each person and \$100,000 each accident and property damage insurance subject to a limit of not less than \$100,000 each accident, against all risks of damage or injury (including death) to property or persons 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 or may be issued to the applicant, or of any work incidental thereto by reason of the defaults, acts or omissions of the applicant, his officers, employees, agents, workmen or independent contractors; such insurance policy or policies shall be issued by companies authorized to do business

under the laws of this State and shall contain endorsements or riders insuring the applicant's liability to indemnify or otherwise reimburse the Town for any loss, damage or expense it may incur through the default, acts or omissions of the applicant in the performance of any work for which a permit is issued to the applicant; the certificate of such insurance must show 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 highway and street opening permit, similar insurance must be provided without any gap in coverage. ~~of the indemnity bond previously described must be similarly provided.~~

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 ~~d~~ways or public lands will be permitted when the ground is frozen, except when necessary in the opinion of the Town Highway Superintendent Board. 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 excavation openings 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~~in opening a trench in~~ any Town highway, ~~Town maintained highway,~~ street, alley, other public way or public lands, ~~the excavated and work areas~~ 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~~at once~~ and the excavated areas shall be left in perfect repair. The applicant~~person to whom a permit is issued~~

~~hereunder~~ shall be responsible for to repair any settling or damage of the excavation for one year after approval of the repair. ~~filling and surfacing for any settling, and shall be liable for all damages resulting from failure to repair such settling.~~

- (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 ~~opening or~~ 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~~ Commission, ~~to be given~~ 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 ~~T~~town Highway Superintendent ~~Commission~~.
- (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 [insert date of ordinance].
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 [insert date of ordinance], 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.

SECTION 2: SEVERABILITY.

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 3: EFFECTIVE DATE.

This ordinance shall take effect immediately upon passage and posting or publication as provided by law.

Dated this _____ day of _____, 2022.

TOWN OF DELAFIELD

Ron Troy, Town Chair

ATTEST:

Dan Green, Town Administrator – Clerk/Treasurer

Published and/or posted this _____ day of _____, 2022.

ORDINANCE NO. 2023-01

AN ORDINANCE TO REPEAL AND RE-CREATE SECTION 8.03 OF THE TOWN OF DELAFIELD TOWN CODE CONCERNING STREET EXCAVATIONS AND ABOVE-GROUND INSTALLATIONS IN THE PUBLIC RIGHT-OF-WAY

WHEREAS, on or about July 10, 2019 the State of Wisconsin adopted 2019 Wisconsin Act 14, which created Wisconsin Statutes Section 66.0414 concerning small wireless facilities, and made other changes to State laws concerning telecommunications facilities; and

WHEREAS, as a result of this legislation, the Town of Delafield Town staff have recommended that the Town Code be updated to address these issues in a manner permitted by current State laws; and

WHEREAS, the Town of Delafield Town staff also recommended to update the Town Code related to excavations that are proposed in or under any street, alley, public grounds or sidewalk; and

WHEREAS, wireless facilities in public right-of-way must be treated the same as other utility installations, and therefore the Town Code is proposed to be updated not only for wireless facilities, but for all above-ground installations in the public right-of-way; and

WHEREAS, the Town Board hereby intends to adopt the recommendations of Town staff in this regard; and

WHEREAS, the Town Board of the Town of Delafield deems it necessary to place reasonable restrictions on the public rights-of-way.

NOW THEREFORE, the Town Board of the Town of Delafield, Waukesha County, Wisconsin, does hereby ordain as follows:

SECTION 1: Chapter 8 of the Town of Delafield Town Code entitled, "Public Works," Section 8.03 entitled, "Excavation in Public Right of Way" is hereby repealed and re-created as follows:

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. Except as provided in sub. 2. below, the applicant shall provide 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 obstruction or excavation 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 an obstruction or excavation permit is issued to the applicant.

2. Insurance. In lieu of the indemnity bond, the applicant may deposit with the Town Board a certificate of insurance showing that the applicant is maintaining in force a bodily injury liability insurance policy or policies subject to limits of not less than \$50,000 each person and \$100,000 each accident and property damage insurance subject to a limit of not less than \$100,000 each accident, against all risks of damage or injury (including death) to property or persons 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 or may be issued to the applicant, or of any work incidental thereto by reason of the defaults, acts or omissions of the applicant, his officers, employees, agents, workmen or independent contractors; such insurance policy or policies shall be issued by companies authorized to do business under the laws of this State and shall contain endorsements or riders insuring the applicant's liability to indemnify or otherwise reimburse the Town for any loss, damage or expense it may incur through the default, acts or omissions of the applicant in the performance of any work for which a permit is issued to the applicant; the certificate of such insurance must show 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.

SECTION 2: SEVERABILITY.

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 3: EFFECTIVE DATE.

This ordinance shall take effect immediately upon passage and posting or publication as provided by law.

Dated this ____ day of _____, 2022.

TOWN OF DELAFIELD

Ron Troy, Town Chair

ATTEST:

Dan Green, Town Administrator – Clerk/Treasurer

Published and/or posted this ____ day of _____, 2023.



CREATIVITY BEYOND ENGINEERING

R.A. Smith, Inc.
16745 W. Bluemound Road
Brookfield, WI 53005-5938
(262) 781-1000 | rasmith.com

April 4, 2023

Mr. Ron Troy
Town Chairman
Town of Delafield
W302 N1254 Maple Avenue
Delafield, WI 53018

Re: Town of Delafield 2023 Road Improvement Program

Dear Mr. Troy:

Bids were opened at 10:00 a.m. on Tuesday April 4, 2023 at the Delafield Town Hall for the above referenced project. The 2023 program base bid consisted of pulverizing and paving Oakton Road between CTH SS and Elmhurst Drive. We included an alternate bid for overlay paving Oakton Road between Elmhurst Drive and the western termini. The combined base bid and mandatory alternate bid received has been checked and tabulated as follows:

| <u>BIDDER</u> | <u>BID</u> |
|-------------------------------|--------------|
| 1. Payne & Dolan, Inc. | \$517,380.80 |
| 2. Wolf Paving Inc. | \$544,276.00 |
| 3. Stark Pavement Corporation | \$650,629.30 |

The project bid included rehabilitation work on 16 sanitary sewer manholes along Oakton Road. The work related to the manholes will be paid for by the Lake Pewaukee Sanitary District. For the low bidder, Payne & Dolan, that amounted to \$34,100. Therefore, the net cost to the Town for the roadway work is \$483,280.80

The engineer's estimate for the project was \$582,951. The road improvement portion of the Highway Department budget is \$580,000. The budget allows Highway Superintendent Roberts \$30,000 for miscellaneous road repairs throughout the year and crack filling. The balance available for the road improvement program is approximately \$550,000.

The Payne & Dolan price is reasonable and submitted competitively in good faith. All bid documents are in order. Therefore, I recommend that the Town of Delafield award the 2023 Road Improvement Program to include base bid work and the mandatory alternate bid work to the low bidder, Payne & Dolan, Inc., in the amount of \$517,380.80.

Should you have any questions, please contact me.

Sincerely,
R.A. Smith, Inc.

Timothy G. Barbeau, P.E., R.L.S.
Town of Delafield Engineer

c: Dan Green, Administrator – Clerk/Treasurer
Attachment: Bid Tabulation

2023 Town of Delafield Road Improvement Program (#8407424)

Owner: Town of Delafield

raSmith Project Number: 2231600

Bid Opening: 04/04/2023 10:00 AM CDT

| Item No. | Item Description | UofM | Quantity | Payne & Dolan, Inc. | | Wolf Paving | | Stark Pavement Corp. | |
|---|---|------|----------|---------------------|--------------|---------------------|--------------|----------------------|---------------------|
| | | | | Unit Price | Extension | Unit Price | Extension | Unit Price | Extension |
| Road Improvements (Oakton Road - Elmhurst Drive to CTH SS) | | | | | | | | | |
| 1 | Full Depth Pavement Sawing | LF | 954 | \$1.95 | \$1,860.30 | \$2.00 | \$1,908.00 | \$2.00 | \$1,908.00 |
| 2 | Mill Pavement | SY | 2760 | \$2.60 | \$7,176.00 | \$2.80 | \$7,728.00 | \$2.65 | \$7,314.00 |
| 3 | Pulverize Asphalt Pavement | SY | 19060 | \$2.60 | \$49,556.00 | \$1.80 | \$34,308.00 | \$5.05 | \$96,253.00 |
| 4 | Butt Joints | LF | 235 | \$1.50 | \$352.50 | \$4.80 | \$1,128.00 | \$5.00 | \$1,175.00 |
| 5 | HMA Pavement 5 LT 58-28 S Surface Course (1 3/4") | TON | 2230 | \$68.30 | \$152,309.00 | \$71.10 | \$158,553.00 | \$76.50 | \$170,595.00 |
| 6 | HMA Pavement 3 LT 58-28 S Binder Course (2 1/4") | TON | 2560 | \$59.80 | \$153,088.00 | \$62.30 | \$159,488.00 | \$67.45 | \$172,672.00 |
| 7 | Edge Excavation | LF | 1070 | \$9.60 | \$10,272.00 | \$6.50 | \$6,955.00 | \$13.25 | \$14,177.50 |
| 8 | Excavation Below Subgrade | CY | 950 | \$45.00 | \$42,750.00 | \$63.00 | \$59,850.00 | \$71.30 | \$67,735.00 |
| 9 | Remove and Replace Concrete Curb and Gutter | LF | 32 | \$190.00 | \$6,080.00 | \$118.00 | \$3,776.00 | \$90.00 | \$2,880.00 |
| 10 | Traffic Control | LS | 1 | \$4,350.00 | \$4,350.00 | \$7,885.00 | \$7,885.00 | \$11,000.00 | \$11,000.00 |
| 11 | Pavement Marking (4" yellow lines) | LF | 10960 | \$0.65 | \$7,124.00 | \$0.65 | \$7,124.00 | \$0.66 | \$7,233.60 |
| 12 | Pavement Marking (8" white crosswalk) | LF | 82 | \$9.00 | \$738.00 | \$9.00 | \$738.00 | \$9.10 | \$746.20 |
| 13 | Shoulders | LF | 7200 | \$2.25 | \$16,200.00 | \$1.60 | \$11,520.00 | \$1.35 | \$9,720.00 |
| Road Improvements Subtotal: | | | | | | \$451,855.80 | | \$460,961.00 | \$563,409.30 |

| Manhole Rehabilitation | | | | | | | | | |
|---|--|----|----|------------|-------------|---------------------|-------------|---------------------|---------------------|
| 14 | Excavation, Remove and Replace Concrete Rings with PRO-RINGS, Install Internal/External Seal, Re-set Existing Frame and Cover, Slurry Backfill | EA | 14 | \$2,050.00 | \$28,700.00 | \$3,000.00 | \$42,000.00 | \$3,000.00 | \$42,000.00 |
| 15 | Excavation, Remove and Replace Concrete Rings with PRO-RINGS, Install Internal/External Seal, Provide and Install New Frame and Cover, Slurry Backfill | EA | 2 | \$2,700.00 | \$5,400.00 | \$3,700.00 | \$7,400.00 | \$3,700.00 | \$7,400.00 |
| Manhole Rehabilitation Subtotal: | | | | | | \$34,100.00 | | \$49,400.00 | \$49,400.00 |
| Base Bid Total: | | | | | | \$485,955.80 | | \$510,361.00 | \$612,809.30 |

| Mandatory Alternate Bid: Road Improvements (Oakton Road - Elmhurst Drive to west termini) | | | | | | | | | |
|--|---|-----|-----|---------|-------------|---------|-------------|---------|-------------|
| 16 | Butt Joints | LF | 400 | \$1.50 | \$600.00 | \$4.80 | \$1,920.00 | \$5.00 | \$2,000.00 |
| 17 | HMA Pavement 5 LT 58-28 S Surface Course (2") | TON | 450 | \$68.50 | \$30,825.00 | \$71.10 | \$31,995.00 | \$79.60 | \$35,820.00 |

| | | | | | | | | | |
|--|---|--|--|--|---------------------|--|---------------------|--|---------------------|
| | Mandatory Alternate Bid Total: | | | | \$31,425.00 | | \$33,915.00 | | \$37,820.00 |
| | | | | | | | | | |
| | Base Bid and Alternate Bid Total | | | | \$517,380.80 | | \$544,276.00 | | \$650,629.30 |

RESOLUTION NO. 23-661

**RESOLUTION OF TOWN OF DELAFIELD
ADOPTING A MUNICIPAL ORDINANCE FINE SCHEDULE**

WHEREAS, the Town of Delafield Board of Supervisors feels that it is necessary and desirable to update its current Municipal Ordinance Fine Schedule for citations issued pursuant to Section 25.04(4) of the Town of Delafield Ordinances.

NOW, THEREFORE, BE IT RESOLVED, by the Town of Delafield Board of Supervisors that the following schedule of cash deposits shall be established for use with citations issued under the Town of Delafield Ordinance. The following schedule of cash deposits does not include penalty, assessment, jail assessment and other court costs, which may change from time to time as mandated by Wisconsin Legislature.

| <u>CHAPTER</u> | <u>VIOLATION</u> | <u>FORFEITURE</u> |
|-------------------------------|--|--------------------------|
| 5.01 – FIRE PROTECTION | | |
| | Burning Violations | |
| 1) | Burning general regulations | \$187.00 - \$250.00 |
| | A) Permit Required | \$187.00 - \$250.00 |
| | B) Burning procedures | \$187.00 - \$250.00 |
| | 1) Tools Required | \$187.00 - \$250.00 |
| | 2) Supervision | \$187.00 - \$250.00 |
| | 3) Size of Pile | \$187.00 - \$250.00 |
| | 4) Distances | \$187.00 - \$250.00 |
| | 5) Wind | \$187.00 - \$250.00 |
| | 6) Material banned from burning | \$187.00 - \$250.00 |
| | 7) Time of Burning | \$187.00 - \$250.00 |
| 2) | Special permits | |
| | A) Bonfires | \$187.00 - \$250.00 |
| | B) Burning at construction site | \$187.00 - \$250.00 |
| | C) Burning prairie, grass lands, open fields | \$187.00 - \$250.00 |
| 7 – TRAFFIC | | |
| 7.03(1) | Parking general | \$60.00 |
| 7.03(2) | Parking winter restrictions | \$60.00 |
| 7.11 | Accelerating vehicles | \$200.00 |
| 7.12 | Minibikes and all terrain vehicles | \$200.00 |
| 7.14 | Snowmobiles general | \$200.00 |
| | (2) Operation on roads in residential area | \$200.00 |
| | (3) Operation in parks and on public lands | \$200.00 |
| | (4) Operation on private roads | \$200.00 |
| 7.15 | Abandoned or junk vehicles | \$150.00 |
| 8 – PUBLIC WORKS | | |
| 8.02 | Driveways and culverts | \$205.00 |
| 8.02(4) | Driveways closer than 3 feet to the roadway | \$205.00 |
| 8.03 | Road Excavations | \$350.00 - \$1,000.00 |
| 8.08 | Placing injurious substance on street | \$205.00 |
| 8.10 | Debris from vehicles | \$205.00 |

| | | |
|------|-------------------------------|----------|
| 8.11 | Spill debris from vehicles | \$205.00 |
| 8.12 | Traffic over drainage ditches | \$205.00 |

9 – PEACE AND GOOD ORDER

| | | |
|-------------|---|-----------------------|
| 9.01.254.92 | Tobacco by minors | \$140.00 |
| 9.02 | Firearms general | \$255.00 |
| 9.03 | Burning that causes a fire run | \$255.00 |
| 9.04 | Loud and unnecessary noise | \$200.00 |
| 9.05 | Loitering | \$200.00 |
| 9.07 | Abandoned or unattended refrigerators | \$150.00 |
| 9.08 | Littering | \$2,000.00 |
| 9.09 | Consumption of alcohol beverages in public places | \$150.00 |
| 9.10 | Possession of drug paraphernalia | \$691.00 |
| 9.11 | Vicious animals | \$350.00 |
| 9.161.14(3) | Possession of marijuana | \$450.00 |
| 9.940.19(1) | Battery | \$691.00 - \$1,321.00 |
| 9.941.23 | Carrying a concealed weapon | \$350.00 |
| 9.943.01(1) | Criminal damage to property | |
| | (under \$200) | \$250.00 |
| | (\$200- \$500 in damage) | \$500.00 |
| | (\$500-\$1,000 in damage) | \$1,500.00 |
| | (\$1,000 or greater) | \$2,500.00 |
| 9.943.11 | Entry into locked vehicle | \$321.00 - \$691.00 |
| 9.943.13 | Criminal trespass to land | \$350.00 |
| 9.943.14 | Criminal trespass to dwelling | \$376.00 - \$1,321.00 |
| 9.943.15 | Entry into construction site, locked building | \$376.00 - \$1,321.00 |
| 9.943.20 | Theft | |
| | (Under \$200) | \$250.00 |
| | (\$200 - \$500) | \$500.00 |
| | (\$500 - \$1,000) | \$1,500.00 |
| | (\$1,000 or greater) | \$2,500.00 |
| 9.943.23 | Operating vehicle without consent | \$376.00 |
| 9.943.24 | Issue of worthless check not to exceed \$10,000 | |
| | (Under \$200) | \$250.00 |
| | (\$200 - \$500) | \$500.00 |
| | (\$500 - \$1,000) | \$1,500.00 |
| | (\$1,000 or greater) | \$2,500.00 |
| 9.943.50 | Retail theft (under \$200) | \$376.00 |
| 9.944.20 | Lewd and lascivious behavior | \$691.00 - \$1,321.00 |
| 9.946.41 | Resisting or obstructing an officer | \$691.00 - \$1,321.00 |
| 9.947.01 | Disorderly conduct | \$350.00 |
| 9.947.012 | Unlawful use of telephone | \$313.00 - \$1,321.00 |
| 9.947.013 | Harassment | \$691.00 |

10 – PUBLIC NUISANCES

| | | |
|------------|----------------------|------------------------|
| Chapter 10 | General violations | \$250.00 |
| 10.05(7) | Fireworks | Not to Exceed \$500.00 |
| 10.05(13) | Accumulation of junk | Not to Exceed \$500.00 |

12 – LICENSE & PERMITS

| | | |
|----------|------------------------------------|----------|
| 12.05(1) | Soliciting without a permit | \$150.00 |
| 12.05(7) | Violation of direct sellers permit | \$150.00 |

| | | |
|----------|--|----------|
| 12.06(1) | Dog Licensing | \$50.00 |
| 12.06(3) | Dogs running at large | |
| | 1 st offense | \$50.00 |
| | 2 nd offense | \$75.00 |
| | 3 rd offense | \$100.00 |
| | 4 th and subsequent offense | \$125.00 |
| 12.06(4) | Vicious dogs | \$350.00 |
| 12.06(5) | Noisy dogs prohibited | |
| | 1 st offense | \$50.00 |
| | 2 nd offense | \$75.00 |
| | 3 rd offense | \$100.00 |
| | 4 th and subsequent offense | \$125.00 |
| 12.09 | Chicken Licensing | \$50.00 |

17 – ZONING CODE

| | | |
|------------|---|------------------------|
| 17.03 4.D. | Accessory structures too close to lot line | Not to Exceed \$500.00 |
| 17.06 4.A. | Outdoor fireplace too close to lot line | Not to Exceed \$500.00 |
| 17.06 4.B. | Illegal fences | Not to Exceed \$500.00 |
| 17.06 4.C. | Illegal retaining walls | Not to Exceed \$500.00 |
| 17.06 4.D. | Sidewalk and driveway too close to lot line | Not to Exceed \$500.00 |
| 17.08 | Temporary Signs | |
| | Exceeding size requirements | |
| | 1 st offense | \$100.00 |
| | 2 nd offense | \$150.00 |
| | 3 rd offense and subsequent offense | \$200.00 |
| | Exceeding duration | |
| | 1 st offense | \$100.00 |
| | 2 nd offense | \$150.00 |
| | 3 rd offense and subsequent offense | \$200.00 |
| 17.08.7(D) | Prohibited signs | |
| | 1 st offense | \$100.00 |
| | 2 nd offense | \$150.00 |
| | 3 rd offense and subsequent offense | \$200.00 |
| 17.09 2.J. | Residential Parking | \$100.00 |
| 17.09 2.K. | Parking of Vehicles, Trucks and Equipment | \$100.00 |
| 17.09 2.L. | Off-Street Screening Parking | \$100.00 |
| 17.09 2.M. | Parking offset from residential lot line | \$100.00 |
| 17.09 2.N. | Parking closer to base setback line | \$100.00 |
| 17.09 2.P. | Unenclosed, unlicensed, inoperable or junk vehicles | \$250.00 |

19 – PARK RULES

| | | |
|----------|-----------------------|----------|
| 19.01 | Park hours | \$140.00 |
| 19.02 | Skateboard area | \$140.00 |
| 19.02.1 | Skateboard area hours | \$140.00 |
| 19.02(A) | Smoking | \$140.00 |
| 19.02(B) | Alcohol | \$140.00 |
| 19.02(C) | Glass containers | \$140.00 |
| 19.02(D) | Graffiti | \$140.00 |
| 19.02(E) | Homemade ramps | \$140.00 |
| 19.02(F) | Littering | \$140.00 |
| 19.02(G) | Bicycles | \$140.00 |

BE IT FURTHER RESOLVED that all prior resolutions in effect adopting Municipal Ordinance Fine Schedule are hereby repealed.

BE IT FURTHER RESOLVED that this resolution shall be in full force and affect from and after its passage.

PASSED AND ADOPTED by the Town Board of the Town of Delafield, Waukesha County, Wisconsin this _____ day of _____, 2023.

TOWN OF DELAFIELD

Ron Troy, Town Chairman

ATTEST:

Dan Green, Administrator-Clerk/Treasurer