

TITLE 4

Public Works

- Chapter 1 Public Works
- Chapter 2 Laying Out and Construction of Town Highways and Road
- Chapter 3 Road Excavations; Trees
- Chapter 4 Regulation of Parks
- Chapter 5 Regulation of Water Traffic, Boating and Water Sports

CHAPTER 1

Public Works

- 4-1-1 Public Works
- 4-1-2 Payment for Public Works: Special Assessments

SEC. 4-1-1 PUBLIC WORKS.

Without limitation because of enumeration, the Town Board may:

- (a) **Acquire Lands.** Notwithstanding Sec. 60.10(2)(e), Wis. Stats., acquire lands to lay, construct, alter, extend or repair any highway, street or alley in the Town.
- (b) **Streets, Sewers and Water Mains.** Provide for laying, constructing, altering, extending, replacing, removing or repairing any highway, street, alley, sanitary sewer, storm sewer or water main in the Town.
- (c) **Sidewalks.** Provide for construction, removal, replacement or repair of sidewalks under Sec. 66.615, Wis. Stats.
- (d) **Lighting Highways.** Provide for lighting for highways, as defined under Sec. 340.01(22), Wis. Stats., located in the Town.
- (e) **Lake Improvement.** Provide for making improvements in any lake or waterway located in the Town.

State Law Reference: Section 60.50, Wis. Stats.

SEC. 4-1-2 PAYMENT FOR PUBLIC WORKS; SPECIAL ASSESSMENTS.

The Town Board may levy and collect special assessments and charges under Sed. 66.60, Wis. Stats., and Title 2, Chapter 8, of this Code to pay for all or part of the cost of any public work or

improvement. Special Assessments may be paid under Sec. 66.54, Wis. Stats. Reassessments shall be under Sec. 66.635, Wis. Stats.

State Law Reference: Sections 60.51, 66.54, 66.60 and 66.635, Wis. Stats.

CHAPTER 2

Laying Out and Construction of Town Highways and Roads

- 4-2-1 Application to Lay Out and Construct Highway
- 4-2-2 Restrictions on Laying Out Highways
- 4-2-3 Procedure After Application is Filed
- 4-2-4 Duties of Applicants After Application is Filed
- 4-2-5 Proceedings After Notice
- 4-2-6 Order, Award and Recording
- 4-2-7 Damages
- 4-2-8 Appeals
- 4-2-9 Payment of Construction Expenses
- 4-2-10 Preliminary Inspection
- 4-2-11 Roadway Specifications
- 4-2-12 Final Inspection
- 4-2-13 Sale of Lands Abutting a Private Drive

SEC.4-2-1 APPLICATION TO LAY OUT AND CONSTRUCT HIGHWAY.

An application to lay out and construct a Town highway may be filed by six (6) or more residents freeholders of the Town. Said application must be in writing and it may be delivered to any Supervisor or the Town Clerk. The application shall contain a complete description and a survey map of the property in question. New streets and roads in subdivisions and plats shall be constructed pursuant to the County subdivision ordinance and this Chapter.

State Law Reference: Section 80.22, Wis. Stats.

SEC. 4-2-2 RESTRICTIONS ON LAYING OUT HIGHWAYS.

- (a) No Town highway shall be laid out through or upon any cemetery without the consent of those having the control of the cemetery.

- (b) No Town highway shall be laid through or upon any structure, yard, or enclosure used for educational or charitable purposes.
- (c) No Supervisor shall act in laying out, altering, widening or discontinuing any highway in which he may be personally interested.
- (d) When the laying out of a highway would require the construction of a bridge costing more than One thousand Dollars (\$1,000.00), exclusive of donations, the order of the Supervisor laying out such highway shall not be effective unless approved by the electors of the Town, and an estimate by the Wisconsin Department of Transportation shall be conclusive of the cost of such bridge for the purposes of this Section.
- (e) Without the consent of the owner, no Town highway shall be laid out through or upon any garden or orchard or any building or fixture used for trade or manufacture or any other building or fixture or the yard or enclosure necessary to the use thereof, when the damage thereby caused thereto, exclusive of the damage to the land, exceeds Three Hundred Dollars (\$300.00).

State Law Reference: Sections 80.02, 80.03 and 80.04, Wis. Stats.

SEC. 4-2-3 PROCEDURE AFTER APPLICATION IS FILED.

- (a) On application made pursuant to Sec. 4-2-1 above, the Town Board shall prepare a notice fixing therein a time and place at which they will meet and decide upon the applications.
- (b) The notice shall specify as near as practicable the highway proposed to be laid out, widened, altered or discontinued and the tracts of land through which the highway passes.
- (c) If the application is for discontinuance the notice shall specify the tracts of land abutting on the highway which will be benefited or injured by such discontinuance.
- (d) When the description in the aggregate exceeds two hundred (200) words in length, the notice may state that such descriptions are contained in the application as provided in Sec. 80.02, Wis. Stats., and shall give the name and address of the Town Clerk to whom the application has been delivered.

State Law Reference: Section 80.05(1), Wis. Stats.

SEC. 4-2-4 DUTIES OF APPLICANTS AFTER APPLICATION IS FIXED.

- (a) Applicants shall at least ten (10) days prior to date of hearing give notice by registered mail to all occupants and owners of record of lands through which the highway may pass.
- (b) Applicants shall give notice to the Department of Natural Resources by registered mail.

- (c) Applicants shall give notice to the Board of Soil and Water Conservation District by registered mail.
- (d) Applicants shall publish the notice as a Class 2 notice under Ch. 985 of Wisconsin Statutes.
- (e) Failure of applicants to comply with this Section will invalidate the entire proceeding.
State Law Reference: Sections 80.08(2), Wis. Stats.

SEC. 4-2-5 PROCEEDINGS AFTER NOTICE.

- (a) The Supervisors shall meet at the time and place stated in the notice pursuant to Sec. 4-2-3(a).
- (b) The Supervisors are to be satisfied that all notices as required by this Chapter and the Laws of the State of Wisconsin have been complied with.
- (c) The Supervisor shall personally examine the highway which is the subject of the application and shall hear any reason that may be offered for or against laying out, widening or altering the highway.
- (d) The Supervisors shall, after complying with Subsections (a), (b), and (c) above, decide upon the application and shall grant or refuse the same as they deem best for the public good.
- (e) The Supervisors may adjourn said hearing from time to time, not exceeding in all thirty (30) days from the time of the first meeting, giving public notice of the time and place of such adjournment and by filing forthwith of such adjournment in the office of the Town Clerk.
State Law Reference: Section 80.06, Wis. Stats.

SEC. 4-2-6 ORDER, AWARD AND RECORDING.

- (a) When Supervisor lay out, alter, widen or discontinue any highway, they shall make and sign an order there for, incorporating therein a description of the highway and cause survey thereof to be made when necessary.
- (b) Damages are to be awarded to landowner pursuant to Sec. 4-2-7 hereafter and Sections 80.09 and 80.10, Wis. Stats.
- (c) The order and award of damage shall be filed and recorded in the office of the Town Clerk within ten (10) days after the date fixed by the notice or adjournment for deciding upon the application.
- (d) If the Supervisors fail to file the order and award within ten (10) days, they shall be deemed to have decided against the application.
- (e) A certified copy of the order shall be transmitted by the Town Clerk to the County Highway Commissioner.

State Law Reference: Section 80.07, Wis. Stats.

SEC. 4-2-7 DAMAGES

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

State Law Reference: Sections 80.09 and 80.10, Wis. Stats.

SEC. 4-2-8 APPEALS.

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

State Law Reference: Sections 80.17 and 80.24, Wis. Stats.

SEC. 4-2-9 PAYMENT OF CONSTRUCTION EXPENSES.

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

SEC. 4-2-10 PRELIMINARY INSPECTION.

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

SEC. 4-2-11 ROADWAY SPECIFICATIONS.

- (a) **General Requirements.**

- (1) Construction Standards. All roadway construction and materials used shall be performed in accordance with the construction methods as listed in the appropriate current sections of the "State of Wisconsin Department of Transportation Standard Specifications for Road and Bridge Construction" and its supplements, or in accordance with Town-approved plans, profiles and cross sections and specifications, if such specifications are requested by the Town Board or Town Engineer. No construction shall be started until such plans, profiles and cross sections have been approved by the Town Engineer.
- (2) Project Costs. All roadway surveys, dedications, plans and specifications and construction will be at the expense of the applicant or applicants. This includes any expense incurred by the Town in the preparation of plans and review and inspection of plans and construction.
- (3) Material Slips. Copies of material slips for all materials furnished for the road construction projects shall, upon the request of the Town Board, be delivered to the Town before the Town approves the final construction.
- (4) Required Inspections. The contractor shall notify the Town Chairperson or Town Clerk prior to the start of construction and when each stage of construction is ready for inspection. Inspections will be required at the completion of the following stages;
 - a. Subbase grading; and
 - b. Crushed aggregate course.

Any deficiencies found by Town Chairperson, Town Board or Town Engineer shall be corrected before proceeding to the next phase of construction.

- (5) Test of Materials. The Town reserves the right to obtain a sample of the roadway base material prior to placement on the roadway for purposes of determining whether the material meets gradation and soundness requirements.
- (b) **Construction Standards**. All streets and highways constructed in the Town shall fully comply with the following construction standards, with construction at the applicant's expense:
- (1) Topsoil Removal. All topsoil shall be first removed. In addition, all subsoils which have a high shrink-swell potential, low-bearing capacity when wet or are highly elastic shall be removed and used outside of the right-of-way. Where both subsoil and substratum have a high shrink-swell potential and low-bearing capacity when wet, an underdrain system shall be installed to keep the water level five (5) feet below the pavement surface.

- (2) Right-of-Way Width. A minimum road right-of-way width of sixty-six (66) feet is required, except that if the road ends in a cul-de-sac or dead end a sixty (60) feet turnaround radius is required.
- (3) Roadway Alignment Details. Roadway alignment shall be as specified in the County Code of Ordinances.
- (4) Roadway Grading: Ditches. Roads shall be graded to their full width in accordance with approved plans, plus an additional distance necessary to establish a four-to-one backslope. The roadway shall be compacted and graded to subgrade using, where necessary, approved fill material which has a low shrink-swell potential, low compressibility and is stable. Roadside ditches shall be a minimum of twenty-six (26) inches below the finished roadway centerline elevation. Debris may not be buried in the sixty-six (66) foot road right-of-way.
- (5) Roadway Grades. Roads shall have a maximum grade of eight percent (8%).
- (6) Roadway Width. Roadways shall either have a base width a minimum of twenty-eight (28) feet or wider of full depth gravel, or follow the requirements of the "Town Road Standards" noted in Section 86.26, Wis. Stats., whichever is required by the Town Board. A designated grade of base gravel shall be used by not less than the standards provided by the Wisconsin Statutes for a roadway handling one hundred (100) vehicles per day. The gravel must be applied at least twenty-five (25) yards per one hundred (100) lineal feet of roadway and spread at a minimum of twenty (20) feet in width. Other provisions of graveling may be imposed by the Town officials in low, wet or sandy places where additional gravel or fill would be required for public health, safety and maintenance reasons.
- (7) Roadway Culverts and Bridges: Surface Drainage. Roadway culverts and bridges shall be constructed as directed by the Town Board and sized utilizing the methods listed in Chapter 13 of the manual entitled "Drainage" of the "Facilities Development Manual" of the Wisconsin Department of Transportation. The developer shall provide adequate facilities to provide surface water drainage as well as free flow outlets for subsurface drain tile where they are required. Where drainage facilities will aid in road construction and the stabilization of the road's subgrade, drainage facilities shall be installed before road construction is started.
- (8) Driveway Culverts. Driveway culverts shall be sized by the Town Highway Commissioner after consultation with the Town Board or Town Engineer (if appropriate). The culverts shall be placed in the ditch line at elevations that will assure proper drainage. Culverts shall be installed wherever a roadway intercepts a natural waterway and flow in such a manner that no correction or run-off of water will be allowed. Further, culverts will be required wherever driveways are to be installed or wherever the proposed roadway or easement junctions into or

intercepts an already accepted or established roadway or easement. The decision of the Town Board will be final in deciding the size and structural material of the culvert. Any and all culverts will be installed at the sole expense of the party requesting the roadway or easement.

- (9) **Surfacing.** When the grade and base have settled for a reasonable period of time, the roadway will be inspected by the Town officials, who will then require the party requesting the roadway or easement, at their discretion, to install or layout a hot- or cold-mix bituminous surface which must be applied with a paver or hot-mix machine. The depth of compacted bituminous surface shall be not less than two (2) inches, a top width of twenty (20) feet and a three (3) foot gravel shoulder installed with a shoulder machine.
- (10) **Financing.** The applicant shall deposit a sum of money with the Town adequate to cover the cost of additional construction which will be necessary to complete the road. The amount of money so deposited shall be determined by the Town Board. The Town may require higher road standards and greater pavement thickness where traffic volumes and composition dictate the need. The Town Board may elect to accept a certificate of deposit or bond in lieu of a cash escrow.
- (c) **Statutory Requirements.** The laying out of highways and roads shall be provided in Chapters 80 & 86, Wis. Stats., except that, in the case of subdivisions and certified surveys, the provisions of Sec. 236.29(2), Wis. Stats., shall apply.
- (d) **Proximity to Other Roads.** No road applied for running parallel with existing public road can be closer than six hundred (600) feet.
- (e) **Easements.** The applicant shall provide the Town with a deed to road and easements for all drainage facilities not within the road right-of-way. Where required, the applicant shall also furnish to the Town any special deed or easement, such as, but not limited to, sight easements, slope easements, pedestrianways, sewer easements and such.

SEC. 4-2-12 FINAL INSPECTION.

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

SEC 4-2-13 SALE OF LANDS ABUTTING A PRIVATE DRIVE.

No person, persons, corporation or any other entity shall sell or convey any parcel of land, regardless of size, unless it is abutted by a public road that is maintained by the State of Wisconsin, County of Waushara or Town of Marion. However, a parcel of land may be conveyed that is not served by a public road if the seller informs the buyer of the instrument of conveyance of the fact that the lands are not served by a public roadway and that the party acquiring title to the lands binds himself, his successor, heirs, assigns or personal representatives to provide an easement to the lands and that proper notice is also given on the document of conveyance that at no time will the Town of Marion be required to provide public access to these lands unless the expenses incurred in providing the public access are paid by the purchasers of the land, their heirs, successors, assigns or personal representatives.

CHAPTER 3

Road Excavations; Trees

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

SEC. 4-3-1 EXCAVATIONS OF STREETS, ALLEYS, PUBLIC WAYS AND ROADS.

(a) **Permit Required.**

- (1) No person, partnership, utility or corporation, or their agents or employees or contractors shall make or cause to be made any opening or exaction in any public street, public road, public alley, public way, public ground, public sidewalk or Town-owned easement or fill or alter any culvert or construct or install additions or extensions to its existing facilities within the Town of Marion without a permit therefor from the Town Chairperson or Clerk.
- (2) The utility or contractor shall submit to the Town a written request for a utility construction/street excavation permit and a plan of the proposed alteration, extension or addition, showing its location and detail of construction, including specified depth, method of excavation, open out or augering, provisions of restoration and whatever the Town would deem necessary for review and consideration. In being issued a permit the utility or contractor agrees to be bound by the regulation of this Section and Section 4-3-2.

(b) **Fee.** The fee for an excavation or opening permit shall be Five Dollars (\$5.00). The fee shall be paid to the Town Clerk, who shall issue a receipt therefor.

(c) **Insurance Required.** A permit shall be issued only upon condition that the applicant submit to the Town satisfactory written evidence that applicant has in force and will maintain during the time the permit is in effect public liability insurance of not less than One Hundred Thousand Dollars (\$100,000.00) per 1 person, Three Hundred Thousand Dollars (\$300,000.00) for one (1) accident and property damage coverage of not less than Fifty Thousand Dollars (\$50,000.00). the Town shall be listed as a third-party insured on the policy.

(d) **Bond.**

- (1) Before a permit for excavating or opening any street or public way may be issued, the applicant must sign a statement in that he will indemnify and save harmless the Town of Marion and its officers from all liability for accidents and damage caused by any of the work covered by his permit, and that he will fill up and place in good and safe condition all excavations and openings made in the street, and will replace and restore the pavement over any opening he may make as near as can be to the state and condition in which he found it, and keep and maintain the same in such condition, normal wear and tear excepted, to the satisfaction of the Town Board for a period of two (2) years, and that he will pay all fines imposed upon him for any violation of any rule, regulation or ordinance governing street openings or drainlaying adopted by the Town Board and will repair any damage done to existing improvements during the progress of the excavation in accordance with the ordinances, rules and regulations of the Town. Such statement shall also guarantee that if the Town shall elect to make the street repair, the person opening the street will pay all costs of making such repair and of maintaining the same for one (1) year.
- (2) The person who does such restoration shall be responsible therefor for two (2) years from the date of the completion of the work and shall file a written guarantee or surety bond to that effect with the Town in the amount of One Thousand Dollars (\$1,000.00).
- (3) Whenever the Town Board shall find that any such work has become defective within two (2) years of the date of completion, it shall give written notice thereof to the contractor or to his surety stating the defect, the work to be done, the cost thereof and the period of time deemed by the Town Board to be reasonably necessary to complete said work. After receipt of such notice, the contractor or the surety must, within the time specified, repair the defect or indemnify the Town for the cost of doing the work as set forth in the notice.

SEC. 4-3-2 REGULATIONS GOVERNING EXCAVATIONS AND OPENINGS.

- (a) **Frozen Ground.** No openings in the streets, alleys, sidewalks or public ways shall be permitted when the ground is frozen except where it is deemed necessary by the Town Board.
- (b) **Removal of Paving.** In any opening or excavation, all paving or ballasting materials shall be removed with the least possible loss of or injury to surfacing materials and together with the excavated materials from the opening shall be placed so as to cause the least practicable inconvenience to the public and permit free flow of water along gutters.
- (c) **Protection of Public.**
 - (1) Every opening and excavation shall be enclosed with sufficient barriers. Sufficient warning lights shall be kept on from sunset to sunrise. Such lights shall be spaced so

as to give adequate warning of the existence of the opening and of piled excavated materials. No open flame warning pots shall be used. Except by special permission from the Town, no trench shall be excavated more than two hundred fifty (250) feet in advance of pipe or conduit laying nor left unfilled more than five hundred (500) feet where pipe or conduit has been laid.

- (2) All necessary precautions shall be taken to guard the public effectively from accidents or damage to persons or property through the period of the work. Each person making such opening shall be held liable for all damages, including costs incurred by the Town in defending any action brought against it for damages, as well as cost of any appeal, that may result from the neglect by such person or his employees of any necessary precaution against injury or damage to persons, vehicles or property of any kind.
- (d) **Replacing Street Surface.** In opening any public street, public alley, public sidewalk, public way, public easement or public ground, the paving materials, sand, gravel and earth or other material moved or penetrated and all surface monuments or hubs must be removed and replaced as nearly as possible in their original condition or position and the same relation to the remainder as before. Any excavated material which, in the opinion of the Town, is not suitable for refilling shall be replaced with approved backfill material. All rubbish shall be immediately removed. In refilling the opening, the earth must be puddle or laid in layers not more than six (6) inches in depth and each layer rammed, tamped or flushed to prevent after-settling. When the sides of the trench will not stand perpendicular, sheathing and braces must be used to prevent caving. No timber, bracing, lagging, sheathing or other lumber shall be left in any trench. The Town may elect to have the opening for any street or sidewalk repaired by the Town, in which case the cost of making such repair and of maintaining it for one (1) year shall be charged to the person making the street opening.
- (e) **Notice.** It shall be the duty of the permittee to notify the Town Board or Town Clerk and all private individuals, firms and corporations affected by the work to be done at least twenty-four (24) hours before such work is to commence. The Clerk shall also be notified at least four (4) yours prior to backfilling and/or restoring the surface.
- (f) **Validity of Permit.** Unless the work shall be commenced within thirty (30) days of the issuance of the permit, the permit shall be void, and a new permit must be obtained and an additional fee charged. The Town may extend the time limitation for good cause. The utility or contractor shall have present at the site of construction and during the restoration period a copy of the construction plans and Town permit.
- (g) **Backfilling.** It shall be the duty of the permittee to backfill the opening immediately upon completion of the work and to place at least five (5) inches of traffic bind or similar material in the opening unless otherwise advised by the Town. It shall be the duty of

the permittee to maintain the opening in good condition for a period of (6) months after the completion of the work or until the surface has been restored. The Town shall decide when, within said six (6) months' period, the opening is ready for paving if a paving surface is required. If the surface is not restored within a period of then (10) days of such longer period as determined by the Town, the Town may restore the surface and bill the permittee therefor.

- (h) **Emergency excavation.** In the event of an emergency, any person, firm or corporation, owning or controlling any sewer, gas main, water main, conduit or other utility in or under any public street, alley easement, way or ground and his agents and employees may take immediate proper emergency measures to remedy dangerous conditions for the protection of property, life health or safety without obtaining an excavation permit, provided that such person, firm or corporation shall apply for an excavation permit not later than the next business day.
- (i) **Excavation in New Streets Limited.** Whenever the Town Board determines to provide for the permanent improvement or repaving of any street, such determination shall be made not less than thirty (30) days before the work of the improvement or repaving shall begin. Immediately after such determination by the Town Board, the Town shall notify in writing each person, utility, Town department or other agency owning or controlling any sewer, water main, conduit or other utility in or under said street or any real property abutting said street, that all such excavation work in such street must be completed within thirty (30) days. After such permanent improvement or repaving, no permit shall be issued to open or excavate said street for a period of five (5) years after the date of improvement or repaving unless, in the opinion of the Town Board, an emergency exists which makes it absolutely essential that the permit be issued.
- (j) **Exception.** The provisions of this Section shall not apply to excavation work done by Town employees or contractors performing work under contract with the Town except that the safety precautions under Subsection (c) hereof shall be complied with.

SEC. 4-3-3 TREES AND SHRUBBERY OBSTRUCTING VIEW AT INTERSECTION OR VIEW OF TRAFFIC SIGNS; TREE REMOVAL; FENCES.

- (a) **Obstruction of Intersections.** No person shall maintain, plant or permit to remain on any private or public premises situated at the intersection of town 920 or more roads, street or alleys in the Town any hedge, tree, shrub or other growth which may obstruct the view of the operator of any motor vehicle or pedestrian approaching such intersection.
- (b) **Obstruction of Signs.** It is unlawful for any person to plant, cause to grow, allow to grow or maintain any trees, bushes, shrubbery or vegetation of any kind which is an obstruction to the clear and complete vision of any traffic sign in which is an obstruction

to the clear and complete vision of any traffic sign in the Town. It shall be the duty of every owner of such tree, brush, shrubbery or vegetation to remove such obstruction.

- (c) **Abatement Procedure.** Any Shrub, tree or other plant which obstructs the view at an intersection or the view of a traffic sign shall be deemed to be dangerous to public travel, and the Town Clerk shall notify the property owner in writing, describing the conditions, stating the steps necessary to correct the conditions, and establishing a reasonable time within which the corrective steps shall be taken. In the event that effective steps are not taken within the time specified, it shall be lawful for the Town to abate these conditions to the extent necessary to assure compliance with the foregoing requirements, and the costs thereof shall be assessed to the owner.
- (d) **Trees on and Adjacent to Highway.**
- (1) Removal of Fallen Trees. If any tree falls from adjacent land into any highway, the owner or occupant of the land shall immediately remove the tree from the highway. It shall be the duty of every highway patrolman, street commissioner or other officer in charge of the maintenance of streets or highways to remove from any highway any fallen tree or trees therein.
- (2) Planting Trees and Shrubs in Highway. Any person owning or occupying land adjoining any highway may, with the approval of the Town Board, plant, cultivate and maintain trees, shrubs or hedges on the side of the highway continuous to and within ten (10) feet of his land. Such trees, shrubs or hedges shall be cut or removed only by the owner or occupant of the abutting land or by the public authority having control of the highway.
- (e) **Cutting or Injuring Trees on Highway.** No person shall cut down, bread, girdle, bruise the bark or in any other manner injure any public or private trees, shrubs or hedges growing within the highway, except as the owner thereof or the public authority maintaining the highway may cut down, trim and remove trees, shrubs and hedges for the purpose of and conducting to the benefit and improvement of the owner's land or the highway facility. When it is necessary for trees in a road right-of-way to be removed, the adjacent property owner shall have a right of first refusal to have the wood. After receiving notice that a tree is to be removed, the adjacent property owner shall have fourteen (14) days to remove the tree.
- (f) **Fences.** No person shall build or reconstruct any fence within the thirty-three (33) foot public road right-of-way measured from the center of the road. With the permission of the Town Board, a person owning or occupying land adjoining a highway may build or reconstruct a fence on the side of the highway continuous to and within ten (10) feet of his land.

State Law Reference: Section 86.03, Wis. Stats.

SEC. 4-3-4 INJURY TO TREES AND SHRUBS PROHIBITED.

- (a) No person shall, without the consent of the owner in the case of a private tree or shrub, or without written permits from the Town Board in the case of a public tree or shrub, do or cause to be done by others any of the following acts:
- (1) Secure, fasten or run any rope, wire sign, unprotected electrical installation or other device or material to, around or through a tree or shrub.
 - (2) Break, injure, mutilate, deface, kill or destroy any tree or shrub or permit any fire to burn where it will injure any tree or shrub.
 - (3) Permit any toxic chemical, gas, smoke, oil or other injurious substance to seep, drain or be emptied upon or about any tree or shrub, or place cement or other solid substance around the base of the same.
 - (4) Remove any guard, stake or other device or material intended for the protection of a public tree or shrub, or close or obstruct an open space about the base of a public tree or shrub designed to permit access of air, water and fertilizer.
 - (5) Attach any sign, poster, notice and other object on any tree, or fasten any guy wire, cable, rope, nails, screw or other device to any tree; except that the Town may tie temporary "No Parking" signs to trees when necessary in conjunction with street improvement work, tree maintenance work or parades.
 - (6) Cause or encourage any fire or burning near or around any tree.
- (b) All trees on any parkway or other publicly owned property near any excavation or construction of any building, structure or street work shall be sufficiently guarded and protected by those responsible for such work as to prevent any injury to said trees.

State Law Reference: Section 86.03, Wis. Stats.

SEC. 4-3-5 DEPOSIT OF RUBBISH AND STONES ON HIGHWAY RIGHT-OF-WAY.

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

CHAPTER 4

Regulation of Parks

4-4-1 Park Regulations

4-4-2 Radio-Controlled Model Airplanes Prohibited in Parks

4-4-3 Permit Required for Fisherees/Special Activity on Town Waters

SEC. 4-4-1 PARK REGULATIONS

- (a) **Purpose and Definition.** In order to protect the parks, parkways, recreational facilities and conservancy areas within the Town from injury, damage or desecration, these regulations are enacted. The term "Park," as hereinafter used in this Chapter, shall include all grounds, structures and watercourses which are or may be located within any area dedicated to the public use as a park, parkway, public boat landings, public lake accesses, recreation facility or conservancy district in the Town.
- (b) **Specific Regulations.**
- (1) Littering Prohibited. No person shall litter, dump or deposit any rubbish, refuse, earth or other material in any park, except by placing such material in receptacles provided for such purpose.
 - (2) Sound Devices. No person shall operate or play any amplifying system unless specific authority is first obtained from the Town Board.
 - (3) Pets. No person shall permit any dog, cat or other pet owned by him to run at large in any park or to allow pets to enter any public buildings, bathing beaches, picnic grounds or playgrounds within any park.
 - (4) Bill Posting. No person shall post, paste, fasten, pain or attach any placard, bill, notice, sign or advertising matter upon any structure, tree or other natural object in any park, except park regulations and other signs authorized by the Town Board.
 - (5) Trapping. No person shall trap in any park unless specific written authority is first obtained from the Town Board.
 - (6) Making of fires. No person shall start, tend or maintain a fire except in personal grills or designated fireplaces. Personal grills shall be used only in designated picnic areas. The use of personal grills is permitted provided lawns and vegetation are not endangered. Unburned fuel and ashes shall be disposed of in such a manner as to prevent fire or damage to any park property.
 - (7) Protection of Park Property. No person shall kill, injure or disturb or attempt to injure or disturb waterfowl, birds or animal, wild or domestic, within any park. No person shall climb any tree or remove flowers or fruit, wild or cultivated, or bread,

cut down, trample upon, remove or in any manner injure, deface, write upon or ill use any tree, shrub, flower, flower bed, turf, soil, sand, fountain, ornament, building, structure, apparatus, bench, table, official notice, sign or other property within any park.

- (8) Motorized Vehicles. No person shall operate an unlicensed or licensed motorized vehicle outside of areas specifically designated as parking areas, except areas where the operation of such vehicles is specifically permitted.
- (9) Reckless Driving in Parks Prohibited. No person shall operate a motor vehicle in a reckless manner in any of the public parks of the Town.
- (10) Parking in Parks. No person shall park any motor vehicle in any park in the Town except in a designated parking area.
- (11) Soliciting Boat Rides. It shall be unlawful to use the dock, boar landing or the waters in or immediately adjacent to any park for the purpose of soliciting rides of any kind unless authorized by the Town Board.
- (12) Illegal Entry. It shall be unlawful for any person to enter in any way any park building, installation or area after the posted closing time or before the posted opening time, or contrary to posted notices.
- (13) Camping. Camping is prohibited at all Town boat landings or public lake accesses.

SEC. 4-4-2 RADIO-CONTROLLED MODEL AIRPLANES PROHIBITED IN PARKS.

No person shall fly a radio-controlled model airplane in any park in the Town of Marion except in areas specifically designated and posted for such purpose.

SEC. 4-4-3 PERMIT REQUIRED FOR FISHEREES/SPECIAL ACTIVITY ON TOWN WATERS.

- (a) **Intent.** The intent of this section is to provide for safe and healthful conditions for the enjoyment of waterways of the Town of Marion consistent with public needs and capability of the water resource.
- (b) **Applicability and Enforcement.**
 - (1) The provisions of this Section shall apply to all waters, islands and shores of designated lakes located within the jurisdiction of the Town of Marion.
 - (2) The provisions of this Section shall be enforced by the officers of the Marion Township Water Police and Lake Association Officers.
- (c) **Definitions.** “Fisheree/Special Activity” shall be described as any activity conducted by any person, persons or organization that advertises, solicits or invites the general public or the members of any organization to the waters of the Town of Marion for the

purpose of conducting an activity to be located on the waters or adjacent to the shoreline of the waters of the Town of Marion for the purpose of obtaining revenue either through fishing or other activity or the selling of tickets in any manner whatsoever which would be considered to constitute a raffle under the laws of the State of Wisconsin.

(d) Application and Permit.

- (1) Any person, persons or organization conducting a fisheree/special activity as above described shall first receive from the Town Clerk a permit allowing them to conduct the same on the waters of the Town of Marion. The permit application shall include the designated waterway, the place the fisheree/special activity will be held, a brief description of the activities to take place, the date of the fisheree/special activity and the names of the person, persons or officers of the organization who will be in charge of the cleanup after the fisheree/special activity. Once the application is made, a deposit of One Hundred Dollars (\$100.00) will be deposited with the Town Clerk. The permit shall set forth the exact days on which the exact location where such business shall be carried on and shall be valid only during the dates and at the locations specified. Where a sponsoring organization is the applicant, the applicant shall provide the Town Clerk with a complete list of sponsors and officers at the time of making application.
- (2) Upon receipt of an application for a permit, the Town Clerk shall review the information given on the application for conformity with the provisions of this Section. If all the applicable requirements are clearly and unambiguously met in the Town Clerk's opinion, he shall approve the permit or approve it conditionally. If the applicable requirements are not clearly and unambiguously met in the Town Clerk's opinion, he shall state the matters in doubt in writing to the applicant within three (3) days of the time of making application.
- (3) The Town Board shall review appeals of the denials of the application by the Town Clerk and may either deny the permit, approve the permit or approve the permit conditionally. Appeal requests shall be filed with the Town Clerk within three (3) days of the Clerk's decision.

(e) Inspection and Return of Deposit: Penalty.

- (1) After the event has been concluded, it will be the responsibility of the person, persons, organization or committee who had issued the permit to clean up the area immediately in such a way as to be free of debris and reasonably in the same condition as it was prior to the conducting of the activity. The area will then be inspected by the Water Safety Patrol Officer or Lake Association Officers of the respective lake, and they will then indicate to the Town Clerk whether or not the deposit, or a portion thereof, shall be retained to defray additional expenses required

for the inspection and cleaning up of the area. Based on this report, the balance of the deposit after additional expenses for inspection and cleanup have been deducted will they be returned by the Town Clerk to the party who made the original application and deposit.

- (2) All persons participating in a fisheree/special activity in the Town of Marion for which no permit has been issued pursuant to this Section are liable for a forfeiture as provided in Section 1-1-6.

CHAPTER 5

Regulation of Water Traffic, Boating and Water Sports

4-5-1 Intent of Chapter

4-5-2 Applicability and Enforcement

4-5-3 State Boating and Water Safety Laws Adopted

4-5-4 Definitions in the Chapter

4-5-5 Restrictions Specific to Particular Waters Located in the Town of Marion

4-5-6 Prohibited Operation

4-5-7 Penalties and Deposits

SEC. 4-5-1 INTENT OF CHAPTER.

The intent of this Chapter is to provide safe and healthful conditions for the enjoyment of aquatic recreation consistent with public rights and interest and the capability of the water resource.

SEC. 4-5-2 APPLICABILITY AND ENFORCEMENT.

The provisions of this chapter shall apply to all the waters of the Town of Marion, Waushara county, Wisconsin, within the jurisdiction of said Town. The provisions of this Chapter shall be enforced by law enforcement officers and officials of the Town of Marion.

SEC. 4-4-3 STATE BOATING AND WATER SAFETY LAWS ADOPTED.

The Statutory provisions describing and defining regulation with respect to water traffic, boats, boating and related water activities and safety in Sections 30.50 through 30.80 of the Wisconsin Statutes, and adopting Section 30.80 of the Wisconsin statutes as the penalty section, exclusive of any provisions therein relating to the penalties to be imposed or the punishment for violation of said statutes, are hereby adopted and by reference made a part of this Chapter.

SEC. 4-5-4 DEFINITIONS IN THIS CHAPTER.

The following definitions shall be applicable in this Chapter:

- (a) "Shore zone" means surface water within two hundred (200) feet of the shoreline.
- (b) "Swimming zone" means an authorized area marked by regulatory markers to designate a swimming area.
- (c) "Designated anchorage" means an area of water established and marked as an anchorage by lawful authority.
- (d) "Public access" means any access to the water by means of public property.
- (e) "Slow-no-wake" means that speed at which a boat moves as slowly as possible while still maintaining steering control.
- (f) "Boat" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.
- (g) "Motorboat" means any boat equipped with propulsion machinery, whether or not the machinery is the principal source of propulsion.
- (h) "Flotation device" means a Coast Guard approved personal flotation device as described in Section 30.62(3) of the Wisconsin Statutes.

SEC. 4-5-5 RESTRICTIONS SPECIFIC TO PARTICULAR WATERS LOCATED IN THE TOWN OF MARION.

(a) **Silver Lake.**

(1) Speed Restriction.

- a. No person shall, on any day, operate a motorboat of any nature in excess of a slow-no-wake speed on the waters of Silver Lake between the hours of 8:30 p.m. and 6:00 am the following morning. Further, no person shall operate any boat through the channel known as Fox Tail Bay at any time other than at slow-no-wake speed.
- b. No person shall operate any motorboat in a manner by which a water spout a water spout commonly called a "rooster tail" is raised more than four (4) feet above the surface of the water or extends more than twenty (20) feet beyond the rear of the boat.

- (2) Water Skiing. No person shall operate a motorboat of any nature towing a person or persons on water skis, aquaplane or similar device, nor shall any person engage in water skiing, aquaplaning or similar activity on the waters of Silver Lake between the hours of 8:30 p.m. and 6:00 a.m. the following morning, except on Saturdays, Sundays and specific holidays; namely Memorial Day, July 4th and Labor Day. On the days of Saturday, Sunday and the aforementioned holidays, water skiing, aquaplaning and similar activities will be allowed only between the hours of 10:00 a.m. and 6:00 p.m. At no time shall any person engage in these activities after the time of sunset contrary to Sec. 30.69, Wis. Stats.

(3) Restricted Areas. The following-described areas are designated a bathing or swimming areas on Silver Lake, and no person shall operate a boat except for emergency or rescue craft within these areas marked by the official buoys. A swimming area is designated on the northeastern side of Silver Lake and adjacent to Silvercryst which is described as an area 100 feet long beginning at the culvert which extends to the water line; thence northwesterly 100 feet; thence southerly 100 feet to a buoy; thence southeasterly 100 feet to a buoy; then northwesterly 100 feet to the water line, being the point of beginning.

(b) **Hills Lake.**

(1) Speed Restrictions.

- a. No person shall operate a motorboat in excess of a slow-no-wake speed on the waters of Hills Lake except during the water skiing and speed boating hours hereinafter set forth.
- b. No person shall operate any motorboat in a manner by which a water spout commonly called a “rooster tail” is raised more than four (4) feet above the surface of the water or extends more than twenty (20) feet beyond the rear of the boat.

(2) Water Skiing and Speed Boating Hours. Boating in excess of slow-no-wake speed, water skiing, aquaplaning and similar activities are permitted on Hills Lake only between the hours of 10:00 a.m. – 4:00 p.m. every day of the week.

(3) Restricted Area. The following-described area is designated a bathing or swimming area on Hills Lake, and no person shall operate a boat except for emergency or rescue craft within this area marked by official buoys. The swimming area is designated an area located on the north side of Hills Lake adjacent to Camp Webb starting at the boat house; thence due West 200 feet to a point; thence due south 175 feet, more or less, to a buoy; thence due East 275 feet, more or less, to a buoy; thence due North 175 feet to a point; thence due West 75 feet to a point of beginning.

(4) Boating in excess of slow-no-wake speed, during permitted hours go in a counter clockwise direction.

(c) **Lake Alpine.**

(1) Speed Restriction. No person shall operate a motorboat at any time in excess of a slow-no-wake speed upon the waters of Lake Alpine.

(2) Water Skiing. Water Skiing, aquaplaning or similar activities of any nature whatsoever shall not be allowed on Lake Alpine.

(d) **Lake Lucerne.** No person shall operate a boat of any nature on the waters of Lake Lucerne unless it is propelled by nature or a manual device. It is explicitly understood

that electric engines, as well as combustible engines of any nature whatsoever, are prohibited at all times.

(e) **Spring Lake.** No person shall operate a motorboat at any time in excess of a slow-no-wake speed upon the waters of Spring Lake.

(f) **Irogami Lake.**

(1) Speed Restriction.

a. No person shall on any day operate a motorboat of any nature in excess of a slow-no-wake speed upon the waters of Irogami Lake between the hours of 8:30 p.m. and 6:00 a.m. the following morning.

b. No person shall operate any motorboat in a manner by which a water spout commonly called a "rooster tail" is raised more than four (4) feet above the surface of the water or extends more than twenty (20) feet beyond the rear of the boat.

(2) Water Skiing. No person shall operate a motorboat of any nature towing a person or persons on water skis, aquaplane or similar device, nor shall any person engage in water skiing, aquaplaning or similar activity on the waters of Irogami Lake between the hours of 8:30 p.m. and 6:00 a.m. the following morning, except on Saturdays, Sundays and specific holidays; namely, Memorial Day, July 4th and Labor Day. On the days of Saturday, Sunday and the aforementioned holidays, water skiing, aquaplaning and similar activities will be allowed only between the hours of 10:00 a.m. and 6:00 p.m. At no time shall any person engage in these activities after the time of sunset contrary to Sec. 30.69, Wis. Stats.

SEC. 4-5-6 PROHIBITTED OPERATION.

(a) **Use of Personal Flotation Devices.** No person shall engage in water skiing, aquaplaning or similar activity unless they are wearing a United States Coast Guard approved personal flotation device.

(b) **Swimming Distance from Shore.** No person shall swim more than two hundred (200) feet from the shore unless accompanied by a competent person in a boat and having readily available a United States Coast Guard approved personal flotation device for each person on board and in the water.

(c) **Floating Devices.** No person shall float more than two hundred (200) feet from shore in an innertube or similar floating device unless accompanied by a competent person in a boat having readily available a United State Coast Guard approved personal flotation device for each person on the floating device and in the boat.

SEC. 4-5-7 PENALTIES AND DEPOSITES.

- (a) **Major Violations.** The state-wide Uniform Bond Schedule penalties and deposit schedules shall be applicable.
- (b) **Minor Violations.** The state-wide Uniform Bond Schedule penalties and deposit schedules shall be applicable.

SEC. 4-5-8 USER FEES.

- (a) Boat Trailer Parking Fee.
 - (1) Boat Trailer Parking. Persons who launch boats or other marine vehicles at public boat launches in the Town of Marion at Silver Lake, Lake Irogami and Hills Lake shall be required to pay a fee for parking the boat or other marine vehicle trailers at the public boat launches.
 - (2) Fees Set. The fees for parking boat trailers at public boat launches shall be set by the Town Board of Supervisors.
 - (3) Permits Attached. Daily permits must be displayed on the towing vehicle's dashboard. Seasonal permits must be displayed and affixed to the boat trailer.
 - (4) When and Where Available. Permits will be available at the Boat launches.
 - (5) Failure to purchase a permit or pass will result in a \$200.00 fine.
 - (6) Any person or persons tampering with the lock box or permits will be prosecuted to the fullest extent of the law in accordance with sec. 943.125(1) of the Wisconsin State Statutes.