

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	Performance Bond
4-2-12	Roadway Specifications
4-2-13	Final Inspection

Sec. 4-2-1 Application to Lay Out and Construct Highway.

An application to lay out and construct a new Town highway other than pursuant to a new subdivision or plat may be filed by six (6) or more resident freeholders of the Town. Said application must be in writing and it may be delivered to any Supervisor or the Town Clerk/Treasurer. 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 Town subdivision ordinance and this Chapter where it is not in conflict with the Town subdivision ordinance.

State Law Reference: Section 80.02, 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/she 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 Supervisors 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 application.
- (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/Treasurer to whom the application has been delivered.

Sate 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 the Wisconsin Statutes.
- (e) Failure of applicants to comply with this Section will invalidate the entire proceeding.

State Law Reference: Section 80.05(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 Supervisors 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/Treasurer.

State Law Reference: Section 80.06, Wis. Stats.

Sec. 4-2-6 Order, Award and Recording.

- (a) When Supervisors lay out, alter, widen or discontinue any highway, they shall make and sign an order therefor, 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/Treasurer 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/Treasurer to the Dane 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/Treasurer. 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 Supervisors and be filed in the Town Clerk/Treasurer'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 Dane County Register of Deeds.

- (b) If any owner does not so agree with the Supervisors as to his/her 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/Treasurer'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 Westport, the applicant shall notify the Town Chairperson or Town Clerk/Treasurer. 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 Performance Bond.

At the option of the Town Board, the applicant(s) shall prepare the highway (grade, ditch, and gravel, etc.) one year and surface it the next year in order to further compact the roadbed. If so, the applicant(s) shall provide a bond or irrevocable letter of credit which would enable the Town to finish the road, in case of default by the applicant(s). The performance bond, irrevocable letter of credit, or cash escrow agreement shall be equal to one and one-quarter (1-1/4) times the Town Engineer's estimated cost of the required improvements. If the required improvements are not

complete within the eighteen (18) month period, all amounts held under the escrow agreement or performance bond shall be turned over and delivered to the Town and applied to the cost of the required improvements. Any balance remaining after such improvements have been made shall be returned to the owner or subdivider. The Town Board, at its option, may extend the bond period for any additional period not to exceed one (1) year; however, the initial bond shall be required to run one (1) year beyond the initial date of acceptance of improvements.

Sec. 4-2-12 Roadway Specifications.

(a) **General Requirements.**

- (1) **Construction Standards.** All roadway construction and material 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 or Town Board.
- (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 Inspection.** The contractor shall notify the Town Chairperson, Town Engineer, or Town Clerk/Treasurer, as directed by the Town Board, 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;
 - b. Crushed aggregate course;
 - c. Bituminous surface course; and
 - d. Shouldering.
 - e. Erosion control measures, such as soil stabilization and stormwater retention/detention measures.Any deficiencies found by the 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.

- (6) **Pavement Samples.** Samples of material may be required to be taken by the Town at the contractor's expense during pavement construction operations for purposes of determining that the material meets specifications.
- (7) **Town Board Approval.** The finished roadway must meet the approval of the Town Board, upon the recommendation of the Town Engineer, since the Town will include this road work in their annual request for highway aid.
- (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 one hundred twenty (120) foot turnaround radius is required.
 - (3) **Roadway Alignment Details.** Roadway alignment shall be in the center of the road right-of-way.
 - (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 in accordance with Wisconsin Department of Transportation standards. Roadside ditches shall be a minimum of twenty-six (26) inches below the finished roadway centerline elevation, or as approved by the Town Board, upon the Town Engineer's recommendation. Debris may not be buried in the designated road right-of-way. Roadway ditches shall have a normal slope ratio of three (3) to one (1) ditch from the edge of the shoulder to the bottom of the ditch and two (2) to one (1) on the back slope.
 - (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 thirty (30) feet or wider of full depth gravel, or follow the requirements of the "Town Road Standards" noted in Section 86.26, Wis. Stats., or by the Town Subdivision Ordinance, the more restrictive of which shall apply. A designated grade of base gravel shall be used but not less than the standards provided by the Wisconsin Statutes for a roadway handling one hundred (100) vehicles per day. 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 Base Thickness.** Residential and rural roads and streets shall have a minimum roadway base thickness of twelve (12) inches of compacted in-place

crushed aggregate base course of gradation No. 2 in the top layer and gradations No. 1 and No. 2 in the lower level.

- a. **On commercial, arterial or other heavy-use roads, as determined by the Town Board,** a base course of twelve (12) inches compacted shall be constructed upon an inspected and approved subgrade, either well-graded crushed gravel from a state-approved pit with a maximum stone of one and one-half (1-1/2) inches and no greater than ten percent (10%) by weight passing a No. 200 sieve or No. 3 crushed rock approximately six (6) inches in depth and one (1) or more layers of fine aggregate, either three-fourths (3/4) inch crushed gravel, well-graded with no greater than ten percent (10%) passing a No. 200 sieve, or three-fourths (3/4) inch traffic-bound crushed rock.
 - b. Subsections a. and b. above are minimum requirements and where applicable, pavement design in accordance with the Wisconsin State Design Manual shall govern.
 - c. In all cases, the base course shall be compacted to the extent necessary to produce a condition so that there will be no appreciable displacement of material laterally and longitudinally under traffic and shall conform to line, grades and shape shown on the approved plans, profiles and cross sections
- (8) ***Pavement Width.*** Roads shall have a minimum pavement width of twenty-two (22) feet or wider when required by the "Town Road Standards" as noted in Sec. 86.26, Wis. Stats., or by the Town Subdivision Ordinance, if applicable, the more restrictive of which shall apply.
- (9) ***Pavement Thickness.*** Residential and rural roads shall have a minimum of four (4) inches thick compacted hot-mix bituminous concrete pavement, placed in two (2) layers -- a binder course of two (2) inches thick and a surface course of two (2) inches. On commercial, arterial or other heavy-use roads, there shall be a minimum of four (4) inches of bituminous concrete pavement, placed in two (2) layers -- a binder course of two (2) inches thick and a surface course of two (2) inches thick. In the case of commercial, arterial or other heavy-use roads, the Town Board may, in the alternative to the above standards, have the Town Engineer provide specifications for paving such roads with a greater thickness after researching the site(s) and conducting a soil analysis. In any case, the Town Board shall have the sole discretion in determining the use and construction classification to be adhered to. In no event later than eighteen (18) months from the Town's approval of the final or official plat. All subsequent shouldering shall be brought to even grade with bituminous mat.
- (10) ***Shoulder Width.*** A shoulder a minimum of four (4) feet wide on each side of the road is required and wider when required by the "Town Road Standards" as noted in Sec. 86.26, Wis. Stats.
- (11) ***Shoulder Thickness.*** Road shoulders shall have a minimum thickness of two and one-half (2-1/2) inches of compacted in-place crushed state-approved aggregate base

- course, over a minimum six (6) inches of compacted in-place crushed state-approved aggregate base course, except that shoulder thickness shall match the thickness of the pavement, provided that there is a minimum shoulder thickness of six (6) inches.
- (12) **Roadway Culverts and Bridges: Surface Drainage.** Roadway culverts and bridges shall be constructed as directed by the Town Board and sized utilizing the TR 55 Standards 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. Existing condition status shall be based on a maximum of a Curve 70.
- (13) **Driveway Culverts.** Driveway culverts shall be installed as prescribed in Section 4-4-2.
- (14) **Topsoil, Grass, Seed, Fertilizer, and Mulch.** All disturbed areas (ditches, backslopes) within the road right-of-way not provided with pavement and shouldering material shall be restored utilizing four (4) inches of topsoil and good-quality seed, fertilizer, and mulch, in accordance with the seeding requirements prescribed in Wisconsin Department of Transportation standards. Ditches along the roadway shall be protected by necessary erosion control materials such as hay bales, sod, erosion control mats, rip rap, etc., as prescribed by the engineering design for the ditches as approved by the Town Engineer.
- (15) **Signs.** All roads constructed in the Town of Westport shall have all street signs paid for by the subdivider and installed by the Town at the subdivider's cost, and as determined by the Town Board or its designee, prior to dedication of the road.
- (16) **Extra Turn Surface.** The radius required shall be twenty-five (25) feet for minor/local roads; heavy traffic/collector street radius shall follow the Department of Transportation Manual.
- (17) **Curvatures.** Curvatures shall be between a six percent (6%) degree minimum and maximum curve for a road curve rated at thirty-five (35) miles per hour, excluding cul-de-sacs, except as provided for in the Town's Land Division Ordinance.
- (18) **Roadway Cross Slopes.** A minimum cross slope of two percent (2%) shall be required.
- (c) **Statutory Requirements.** The laying out of highways and roads shall be provided in Chapters 80 and 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 three hundred (300) feet measured from the right-of-way of the major road.
- (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. 4-2-13 Final Inspection.

Upon completion of the proposed highway, the Town Engineer 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, upon the Town Engineer's recommendation, 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.