

Chapter 3: Highways

3-1 Weight Limit Ordinance Enforcement.

- A. This Ordinance applies to any weight limit violation that occurs on a Town highway.
- B. Wis. Stat. §§ 348.16 & 348.21 are hereby incorporated into this Ordinance by reference as if fully set forth herein, and as from time to time amended.
- C. Any violator of a weight limit on a Town highway is subject to any one, or any combination, of the following penalties:
 - 1. A forfeiture in the amount of not less than \$100 and not more than \$500; and
 - 2. A forfeiture in an amount calculated according to Wis. Stat. § 348.21; and
 - 3. Court-imposed injunctive relief to enjoin further violations.
- D. Upon conviction for a violation of this Ordinance, a violator shall also pay all applicable surcharges, assessments, and costs as allowed by law.
- E. Each trip in violation of a weight limitation on a Town highway constitutes a separate offense under each applicable weight limitation then in effect.

3-2 Special or Seasonal Weight Limitations.

- A. Wis. Stat. § 349.16 is hereby incorporated into this Ordinance by reference as if fully set forth herein and as from time to time amended.
- B. For purposes of this Ordinance, the officer in charge of maintenance of Town highways is the Town Chairperson and/or his or her designee(s).
- C. Application may be made to the Town Board for a permit to allow trip(s) in excess of the imposed weight limitations upon an application and the payment of a fee for the consideration of such permit as determined by the Town Board.
- D. An operator granted a permit must keep a written copy of such permit in the permitted vehicle.

3-3 Utilities in the Rights of Way.

- A. Pursuant to its authority under Wis. Stat. §§ 60.22, 66.0425, 86.07, 86.16, 86.021, 182.017, and 196.58, the Town hereby enacts this Ordinance for reasonable regulations on the placement and maintenance of facilities currently within its rights-of-way or to be placed therein in the future.
- B. The following definitions are applicable within this Ordinance:
1. "Facilities" shall mean all equipment owned, operated, leased, or subleased in connection with the operation of a service or utility service, including, but not limited to: poles, wires, pipes, cables, underground conduits, ducts, manholes, vaults, lines, and other structures and appurtenances.
 2. "Owner" shall mean any person either requesting permission to excavate, obstruct and/or occupy a right-of-way for the purpose of the installation, replacement, maintenance, or removal of facilities and/or any person who currently occupies and/or obstructs a right-of-way for the purpose of facilities.
 3. "Right-of-way" shall mean the surface and space above and below the entire width of an improved or unimproved public roadway, highway, street, bicycle lane, terrace, shoulders, side slopes, and public sidewalk in which the Town has an interest, including any other dedicated rights-of-way for travel purposes.
- C. Location of facilities.
1. A Town permit is required prior to the placement of facilities within rights-of-way.
 - a. The Town Board shall set forth a permit fee in the Town fee schedule.
 - b. Owners shall apply for permits using forms for that purpose made available by the Town.
 - c. A permit may cover any aspect of a facility, including, but not limited to: installation, maintenance, construction site cleanup, and right-of-way restoration.
 - d. A permit application shall include drawings sufficient to depict the Owner's contemplated activity.

- e. The Town may require an Owner to provide additional information as the Town deems necessary, in its sole discretion, to make a determination on an Owner's permit.
 - f. In consideration of the grant of such a permit, the Owner upon acceptance thereof, agrees to indemnify, save, and hold harmless the Town, its successors and assigns, officers, employees, agents, and invitees, from any and all claims, liabilities, losses, costs, damages, or expenses arising due to the presence of the Owner's facilities within the rights-of-way.
 - g. The Town may grant with conditions, including but not limited to restoring the right-of-way to its original condition. The Town reserves the authority to make additional conditions or modifications to conditions in its sole discretion.
2. Limitation of space. The Town may prohibit or limit the placement of new, replacement, or additional facilities within the rights-of-way. In making such decisions, the Town shall strive to the extent possible to accommodate all existing and potential users of the rights-of-way, but shall be guided primarily by considerations of the public interest, including, but not limited to, the following: the public need for a particular utility service; the condition of the right-of-way; the time of year with respect to essential utilities; the protection of existing facilities in the right-of-way; and current or future Town plans for public improvements and development projects.
 3. Attachment to bridges. For any request to attach facilities to any Town bridge or similar structure, the Owner shall provide a structural analysis prepared by a licensed State of Wisconsin professional engineer. The Owner of such facilities shall not be entitled to compensation for the removal or relocation of the facilities in the case of repair, removal, or replacement of said bridge structure by the Town.
 4. Corridors. The Town may assign specific corridors within the right-of-way, or any particular segment thereof, for each type of facility that is, or that the Town anticipates may be, located within a right-of-way. All excavation, obstruction, or other permits issued by the Town involving the installation or replacement of facilities may designate a particular corridor for the facilities.
 5. Facilities already in the right-of-way in a position at variance with a corridor later established by the Town shall, no later than at the time of

the next reconstruction or excavation of the area where the facilities are located, relocate the facilities pursuant to Subsection 3-3.D.

6. Digger's hotline compliance. All Owners and other users of Town rights-of-way shall comply with the digger's hotline requirements set forth in Wis. Stat. § 182.0175, as applicable.
7. Planning. The Town may seek information on existing facility locations for planning purposes. It shall be the obligation of Owners to locate facilities. Facility locations shall be represented in the field during field surveys and/or by providing maps within the planning areas.
8. Non-compliance with locating requirements. No Owner shall fail to locate facilities as required under Wis. Stat. § 182.0175(2m). Additionally, any Owner who fails to locate facilities shall be responsible for all resulting Town costs due to delays caused to Town projects. Repeated failure to locate facilities may result in termination of the privilege to locate facilities within the rights-of way, and/or for a requirement that a sufficient security, such as a bond, letter of credit, or cash, be provided to the Town. Repeated failure to locate facilities shall be defined as more than two occurrences within 12 months or more than three within 24 months.

D. Relocation and protection of facilities.

1. Requirement. An Owner must, promptly and at its own expense, maintain, support, protect, or relocate its facilities in the right-of-way whenever the Town, or its agent, acting in its governmental capacity, requests such action in the interest of health, safety, or public welfare.
2. Order. The Town, or its agent, shall issue a due date for the work to the Owner of not less than 72 hours, which due date shall be reasonable and based upon the actions to be undertaken by the Owner. If so stated in the order, the Owner shall restore the right-of-way to its original condition following the completion of the work.
3. Town's right to self-help. In the event that an Owner does not proceed to maintain, support, protect, or relocate its facilities as ordered by the Town, the Town may arrange to do the same and to bill the resulting costs to the Owner, said bill to be paid within 30 days.
4. Additional cost recovery. The Town may bill the Owner for any additional costs incurred as a result of the failure of the Owner to accomplish the ordered work within the time specified in the order.

E. Facility abandonment.

1. Discontinued operations. An Owner that has discontinued or plans to discontinue its operations in the Town, either in full or in part, must do one of the following:
 - a. Provide information satisfactory to the Town that the Owner's obligations for its facilities under this Ordinance have been lawfully assumed by another Owner.
 - b. Submit to the Town a proposal and instruments for dedication of its Facilities to the Town. If an Owner proceeds under this clause, the Town may, at its option:
 - i. Accept the dedication for all or a portion of the facilities;
 - ii. Require the Owner, at its own expense, to remove the facilities in the right-of-way; or
 - iii. Require the Owner to provide the Town sufficient security, such as a bond, letter of credit, or cash, to reimburse the Town for reasonably anticipated costs to be incurred in removing the facilities.
 - c. Remove its facilities within two years, unless the Town waives this requirement or provides a different deadline.
2. Abandoned facilities. Facilities of an Owner that fail to comply with this Ordinance or facilities that are not claimed by any Owner and which remain either unclaimed or unused for at least one year, shall be deemed to be abandoned. Abandoned facilities are hereby declared to be a public nuisance. In addition to any other remedies or rights available to the Town, the Town may, at its option, do any of the following:
 - a. Abate the public nuisance;
 - b. Take possession of the facilities; or
 - c. Require removal of the facilities by the Owner, or the Owner's successor in interest, or any other party responsible for the facilities.

F. General Owner obligations.

1. An Owner shall comply with all requirements of other applicable local, state, and federal laws.
2. Any person violating this Ordinance or a condition of a permit issued pursuant to this Ordinance is subject to both Section 1-4 of this Code and such other penalties as are set forth within this Ordinance.

3-4 Driveway Connections to Town Highways.

- A. Driveways shall be constructed to Town specifications:
 1. Culvert size, length, and material shall be determined by the Town.
 2. All culverts on Town highways shall be installed by the Town at the property owner's expense.
 3. Culvert width shall be a minimum of 24 feet, for residential and farm property, and 40 feet for commercial and industrial property.
 4. Driveway shall be a minimum of 50 feet from the property line and a minimum of 75 feet from near side right of way of an intersecting roadway.
- B. Vertical retaining walls of stone, brick, concrete, wood and like materials are prohibited.
- C. A single driveway may serve two adjacent properties, the minimum right of way shall be 66 feet and deeded to both properties.
- D. Lawn ditches are allowed with the Town's permission.
- E. Mailbox posts shall not be placed in milk cans, etc., on the Town road surface; they must be in the ditch line off of the road bed.
- F. Place of decorative boulders, etc., in the highway right of way is prohibited.

3-5 Regulation of Newspaper Tubes and Other Roadside Receptacles.

- A. Location of newspaper tubes and roadside receptacles. All newspaper tubes and other receptacles which are designed or used for the receipt of newspapers, pamphlets, literature, packages, or other similar material, other than mail, and which tubes or receptacles are located within any town highway right-of-way in the Town shall be located on the same side of the highway as the mail

box is located, if any. The said newspaper tubes and receptacles shall be located within 1 and 1/2 feet of said mail box and shall in no event be closer to the traveled portion of the roadway than the mail box.

- B. Other locations for said newspaper tubes and roadside receptacles shall require application to and approval action by the Town Board.
- C. Removal in case of violation. The Town Board or anyone designated by the said Town Board may remove any newspaper tube or other roadside receptacle which is located in violation of this Ordinance.

3-6 Snowmobile Routes.

- A. The following town highways may be used for snowmobile routes as provided for in Wis. Stat. ch. 350:
 - 1. Lookout Road between Eau Claire River Road and Forestville Road.
 - 2. Forestville Road from Lookout Road north to end of road.
- B. Other highways shall not lawfully be used for snowmobiles, except as provided for in the Wisconsin Statutes.
- C. Designated routes shall be used only when the Marathon County Snowmobile Trail Coordinator declares the county trails to be open.
- D. The Town Board shall cause the routes to be marked in accordance with Wis. Stat. § 350.13.
- E. No person shall operate a snowmobile over the designated routes at a rate of speed that exceeds the posted speed limit.

3-7 ATV/UTV Routes.

- A. The purpose of this Ordinance is to establish all-terrain vehicle and utility terrain vehicle routes and to regulate the operation of all-terrain vehicles and utility terrain vehicles in the Town.
- B. The Town Board has authority pursuant to Wis. Stat. §§ 23.33(8)(b) & (11) to enact this Ordinance. Definitions of terms contained within this Ordinance shall be the same as those found within Wis. Stat. § 23.33 and Wis. Adm. Code ch. NR 64. Within this Ordinance, "ATV" shall mean all-terrain vehicle, and "UTV" shall mean utility terrain vehicle.

- C. Wisconsin Stat. § 23.33 and Wis. Adm. Code ch. NR 64, and as from time to time amended, are hereby adopted by reference into this Ordinance as if fully set forth herein.
- D. The following are hereby designated ATV/UTV routes in the Town: all Town highways.
- E. The following conditions are placed on the use of the Town ATV/UTV routes:
 - 1. Routes shall be marked with official ATV/UTV route signs in accordance with Wis. Stat. § 23.33(8)(e) and Wis. Adm. Code § NR 64.12(7).
 - 2. Operation shall be subject to all provisions of Wis. Stat. § 23.33 and Wis. Adm. Code ch. NR 64.
 - 3. ATVs and/or UTVs shall observe a maximum speed limit of 35 miles per hour, or a posted highway speed limit, whichever is lower.
 - 4. All ATV and UTV operators shall slow to 10 miles per hour or less when operating within 150 feet of a dwelling.
 - 5. Pursuant to Wis. Stat. § 23.33(4)(d)4, except as otherwise provided in Wis. Stat. § 23.33(4), no person may operate an ATV or UTV on the roadway portion of any highway except on roadways that are designated as ATV/UTV routes by this Ordinance.
 - 6. Operation of ATVs and/or UTVs on a highway in the Town that is an ATV/UTV route is authorized only for the extreme right side of the roadway except that left turns may be made from any part of the roadway that is safe given prevailing conditions.
 - 7. ATV and UTV operators shall ride in single file.
- F. This Ordinance may be enforced by any law enforcement officer having authority and jurisdiction to do so.
- G. Non-moving violations in Subsection H of this Ordinance may also be enforced by the Town Board or its designee.
- H. It shall be a non-moving violation of this Ordinance for any person to do any of the following:
 - (1) Intentionally remove, damage, deface, move, or obstruct any ATV and/or UTV route or trail sign or standard or intentionally interfere with the

effective operation of any ATV and/or UTV route or trail sign or standard if the sign or standard is legally placed by the Town, or any other highway authority or authorized person on behalf of the Town.

- (2) Possess any official ATV and/or UTV route or trail sign or standard of the type established by the Wisconsin Department of Natural Resources for the warning, instruction, or information of the public, unless he or she obtained the official ATV and/or UTV route or trail sign or standard in a lawful manner. Possession of an official ATV and/or UTV route or trail sign or standard creates a rebuttable presumption of unlawful possession.

- I. Any person violating this Ordinance is subject to the penalties listed under Wis. Stat. § 23.33(13). If there is any instance where a penalty under Wis. Stat. § 23.33(13) cannot be determined and/or applied, then the person shall be subject to § 1-4 of this Code.