

TITLE 4

Public Works

- CHAPTER 1 **Public Works**
- CHAPTER 2 **Laying out and Construction of Town Highways and Roads**
- CHAPTER 3 **Private Roads; Road Excavations; Trees**
- CHAPTER 4 **Driveways; Culverts**
- CHAPTER 5 **Regulation of Parks and Navigable Waters**

CHAPTER 1

Public Works

- SECTION 4-1-1 **Public Works**
- SECTION 4-1-2 **Payment for Public Works; Special Assessments**

SECTION 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. 66.0907, 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.

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

The Town of Middleton Board of Supervisors may levy and collect special assessments and charges under Sec. 66.0703, 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. 66.0713, Wis. Stats. Reassessments shall be under Sec. 66.0731, Wis. Stats.

State Law Reference: Sections 60.51, 66.0713, 66.0703 and 66.0731, Wis. Stats.

CHAPTER 2

Laying Out and Construction of Town Highways and Roads

SECTION 4-2-1	Application to Lay Out and Construct Highway
SECTION 4-2-2	Restrictions on Laying Out Highways
SECTION 4-2-3	Procedure After Application is Filed
SECTION 4-2-4	Duties of Applicants After Notice
SECTION 4-2-5	Proceedings After Notice
SECTION 4-2-6	Order, Award and Recording
SECTION 4-2-7	Damages
SECTION 4-2-8	Appeals
SECTION 4-2-9	Payment of Construction Expenses
SECTION 4-2-10	Preliminary Inspection
SECTION 4-2-11	Letter of Credit
SECTION 4-2-12	Roadway Specifications
SECTION 4-2-13	Final Inspection
SECTION 4-2-14	Reserved for Future Use

SECTION 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 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 Town subdivision ordinance and this Chapter where it is not in conflict with the Town subdivision ordinance.

State Law Reference: Section 80.0-2, Wis. Stats.

SECTION 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 a 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

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.

SECTION 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 that 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.

SECTION 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 Dane County Land Conservation Committee 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.

SECTION 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 Subsection (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.

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

- (a) When Supervisors lay out, alter, widen or discontinue any highway, they shall make the sign an order therefore, 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 Dane County Highway Commissioner.

State Law Reference: Section 80.07, Wis. Stats.

SECTION 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 Supervisors 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 Dane County Register of Deeds.
- (b) If any owner does not so agree with the Supervisors as to his damages or does not deliver to the supervisors a written release of all claims for damages, the supervisor 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 with 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.

SECTION 4-2-8 APPEALS.

- (a) **Appeal from Highway Order.** An appeal from any highway order shall be pursuant to Sec. 80.17, Wis. Stats.
- (b) **Appeal from Award of Damages.** An appeal from any 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.

SECTION 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).

SECTION 4-2-10 PRELIMINARY INSPECTION.

Prior to the design, preparation and construction of any roadway to be dedicated to the Town of Middleton, 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.

SECTION 4-2-11 LETTER OF CREDIT

As detailed in the Development Agreement, the applicant(s) shall install highway and drainage improvements according to the requirements of these ordinances. The applicant shall provide an irrevocable Letter of Credit which would enable the Town to finish the improvements in case of default by the applicant(s).

The Letter of Credit shall be equal to one and one-quarter (1 ¼) times the Town Engineer's estimated cost of the required improvements. The Letter of Credit is required to run until one year beyond initial acceptance of the improvements. If outstanding items are not completed in that time frame as determined by the Town Board or Town Engineer, the Town will request an extension to the Letter of Credit, or if necessary, the Town may draw on the Letter of Credit to complete the work.

Cross-Reference: Section 10-2-51.

SECTION 4-2-12 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 Highway and Structure 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 Inspections. The contractor shall notify the Town Chairperson, Town Engineer, or Town Clerk, as directed by the Town Board, prior to the start of construction and when each stage of construction is ready for inspection. Any deficiencies found by the Town Chairperson, Town Board or Town engineer shall be corrected before proceeding to the next phase of construction. Inspections will be required at the completion of the following stages:
 - a. Subbase grading;
 - b. Crushed aggregate course;
 - c. Bituminous surface course;
 - d. Shouldering;

- e. Erosion control measures, such as soil stabilization and stormwater retention/detention measures;
- f. Culverts;
- g. Mailboxes.

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

The inspections and the reports and findings issued after the inspections are not intended as, nor are they to be construed as, a guarantee. In order to so advise the owners and other interested persons, the following disclaimer shall be applicable to all inspections.

These findings of inspections contained herein are intended to report conditions of non-compliance with standards that are readily apparent at the time of the inspection.

- (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 purpose of determining whether the material needs 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) Minimum 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 proper ditch slopes. 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 minimum of thirty-two (32) 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 four (4) to one (1) from the edge of the shoulder to the bottom of the ditch and three (3) to one (1) on the back slope.

- (5) Roadway Grades. Roads shall have a maximum grade of ten percent (10%) unless a different maximum grade is recommended by the Town Engineer and approved by the Town Board. In no instance, however, shall the maximum grade exceed twelve percent (12%). For local streets, no street shall have a grade in excess of four (4) percent within seventy-five (75) feet of an intersection. Longer areas of four (4) percent or less grade may be required as determined by the Town Engineer for collector or arterial streets or local streets where special conditions exist.
- (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., or by the Town Subdivision Ordinance, the more restrictive of which shall apply.

The minimum width shall be increased to thirty-two (32) feet when two (2) multi-model lanes (for bikes, etc.) adjacent to vehicle travel lanes are required by the Town Board, and thirty (30) feet where one multi-model lane adjacent to the travel lane is required.

- (7) Roadway Base Thickness.
- a. Residential and rural roads and streets shall have a minimum roadway base thickness of ten (10) 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.
 - b. 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, or 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.
 - c. In any case, the Town Board shall have the sole discretion in determining the use and construction classification to be adhered to.
 - d. In all cases, the base course shall be compacted to the extent necessary to produce a condition so 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 section 86.26 Wis. Stats., or by the Town Subdivision Ordinance, if applicable, the more restrictive shall apply. The minimum width shall be twenty-six (26) feet if one (1) multi-modal lane (for bikes, etc.) adjacent to vehicle travel lanes is required by the Town Board, or thirty (30) feet if two (2) multi-modal lanes are required. The pavement radii on permanent cul-de-sacs shall be forty-five (45) feet or wider, except that the pavement radii on a temporary cul-de-sac shall be a minimum of thirty-six (36) feet.

The maximum length of permanent dead end lengths shall be no longer than one thousand (1,000) feet unless the Town Engineer determines that the additional length does not substantially increase the difficulty of providing emergency services to residents living on said road.

Temporary dead-ends have no length limit as long as it is in the Town’s power to remove the dead-end by drawing on the applicant’s letter of credit (where applicable) and completing additional street construction.

Temporary dead-ends can be tee turnarounds if 4 lots or less are served by the dead-end and the dead-end is less than 500’ long measured from the last intersection to the end of a lot being improved.

If only two corner lots are served by a temporary dead-end, and the dead end is less than 250’ long, no cul-de-sac or tee turnaround will be required.

In order for an improved lot to receive a building permit, the streets must be completed across its entire lot frontage. For corner lots, streets must be improved for the entire frontage length on both streets.

- (9) Pavement Thickness. Roads shall have a minimum of three and one-half (3-1/2) inches of bituminous concrete pavement, placed in two (2) layers -- a binder course of two (2) inches thick and a surface course on one and one-half (1-1/2) inches thick. For development approved after June 21, 2004, the finish layer of asphalt should not be placed until 2 years after the binder course and the developer is responsible for repairing the binder and obtaining the permission of the Town Engineer before applying the finish layer of asphalt. 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 sites(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. After binder construction and again after final surface course placement, shoulder width shouldering shall be brought even to grade with the bituminous mat.

- (10) Shoulder Width. A shoulder a minimum of three (3) 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. The shoulder shall extend one (1) foot beyond paved multi-modal lanes (for bikes, etc.) adjacent to vehicle travel lanes when required by the Town Board.
- (11) Shoulder Thickness. Road shoulders shall have a minimum thickness of three and one-half (3-1/2) inches of compacted in-place crushed state-approved aggregate base course, over a minimum ten (10) inches of compacted in-place crushed state-approved aggregate base course, except that shoulder thickness shall match the grade of the pavement.
- (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 Runoff Curve Number (RCN) of sixty eight (68).
- (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 six (6) inches of topsoil and good-quality see, 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 Middleton shall have all street signs installed by the subdivider, as determined by the Town Board or its designee, prior to acceptance of the road and issuance of building permits.
- (16) Extra Turn Surface. The minimum pavement radii between intersecting streets shall be forty (40) feet for minor/local roads.
- (17) Radii of Curvatures. When a continuous street centerline deflects at any one (1) point by more than ten (10) degrees, a circular curve shall be introduced having a radius of curvature on said centerline of not less than the following:

Arterial streets and highways:	three hundred fifty (350) feet.
Collector streets:	two hundred (200) feet.
Minor streets:	one hundred fifty (150) feet

- (18) Vertical Curves. All minor road centerlines shall have a minimum “k factor” of 20 for crest curves and 30 for sag curves. Minimum “k factor” for collector and arterial roads shall be as recommended by the Town Engineer.
- (19) Existing Trees. All existing trees shall be removed from street right of ways. Trees shall also be removed from drainage, recreation path and utility easement areas when directed by the Town Board.

(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 provision 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 line 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, pedestrian ways, sewer easements and such.

SECTION 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 the 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 of receipted bills from contractors, engineers and surveyors for all work that has been done and 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.

CHAPTER 3

Road Excavations; Trees

- SECTION 4-3-1 Excavations of Streets, Alleys, Public Ways and Roads**
- SECTION 4-3-2 Regulations Governing Excavations and Openings**
- SECTION 4-3-3 Trees and Shrubbery Obstruction View at Intersection or View of Traffic Signs; Tree Removal; Fences**
- SECTION 4-3-4 Injury to Trees and Shrubs Prohibited**
- SECTION 4-3-5 Deposit of Rubbish and Stones on Highway Right-of-Way Prohibited**
- SECTION 4-3-6 Placement of Rural Mailboxes**

SECTION 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 excavation 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 Middleton without a permit therefore from the Town Chairperson or Clerk, or their designee.
- (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 details of construction, including specified depth, method of excavation, open cut 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 regulations of this Section and Section 4-3-2.

(b) Fee. The fee for an excavation or opening permit shall be Fifty Dollars (\$50.00). 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 Million Dollars (\$1,000,000.00) per one (1) person, One Million Dollars (\$1,000,000.00) for one (1) accident and property damage coverage of not less than One Million Dollars (\$1,000,000.00).

(d) **Bond.**

(1) Before a permit for excavation 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 Middleton and its officers from all liability for accidents and damages 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 one (1) year, and that he will pay all fines imposed upon him for any violation of any rule, regulation or ordinance governing street openings or drain laying 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 one (1) year 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 a minimum amount of Three Thousand Dollars (\$3,000.00).

(3) Whenever the Town Board shall find that any such work has become defective within one (1) year 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.

SECTION 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

Chairperson or Town Clerk, or their designee.

(b) **Removal of Paving.** In any openings or excavation, all paving 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 or 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 that, 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 laid in layers not more than six (6) inches in depth and each layer mechanically rammed or tamped 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. Trenches shall be compacted to ninety-five percent (95%) Modified Procter, with test results from a certified soil tester filed with the Town Engineer. 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 Chairperson and/or Town Clerk, or the Town Engineer when requested by the Town, 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 and /or Chairperson, or the town Engineer when requested by the Town, shall also be notified at least four (4) hours 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.** Reconstruction shall be in accordance with the current cross-section or according to Town Standards, whichever is stricter. If the surface is not restored as required, the Town may restore the surface and bill the permittee therefor; the town shall perform such work and bill the cost thereof to the permittee.
- (h) **Emergency Excavation.** In the event of an emergency, any person, firm or corporation, owning or controlling any sewer, gas main, watermain, 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 improvement or repaving shall begin. Immediately after such determination by the Town Board, the Town Engineer 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 ninety (90) 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 hereof shall be complied with.

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

(a) Obstruction of Intersections.

- (1) Purpose. No person shall maintain, plant or permit to remain on any private or public premises situated at the intersection of two (2) or more roads, streets or alleys in the Town of Middleton any hedge, tree, shrub or other growth which may obstruct the view of the operator of any motor

vehicle or pedestrian approaching such intersection.

- (3) **Traffic Visibility.** On a corner parcel, no fence, wall, hedge, planting or structure shall be erected, placed, planted, or allowed to grow in such a manner as to obstruct vision between a height of two and one-half (2-1/2) feet and ten (10) feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner parcels and a line joining the points along said street lines twenty-five (25) feet from the point of intersection.

In the case of arterial streets intersecting with other arterial streets or railways, the corner cutoff distances shall be determined by the Town Engineer.

- (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 that 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, bush, shrubbery or vegetation to remove such obstruction.
- (c) **Abatement Procedure.** An 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. If the tree is not removed by the property owner following notice from the Town, the Town may remove from any highway any fallen tree or trees therein and charge the cost thereof to the property owner pursuant to Sec. 66.0627(16), Wis. Stats.
 - (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 contiguous to and with 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, break, 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 to 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 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 contiguous to and within ten (10) feet of his land.

State Law Reference: Sec. 86.03, Wis. Stats.

SECTION 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 any 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, screws 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: Sec. 86.03, Wis. Stats.

SECTION 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 snow, 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 Middleton, without written permission of the Town Board for temporary use.

SECTION 4-3-6 PLACEMENT OF RURAL MAILBOXES.

Rural mailboxes are prohibited on the right-of-way of all highways within the Town of Middleton except as hereinafter provided:

- (a) Mailboxes are approved only if they are of a construction of design approved by the United States Postal Service or previously approved by the Postmaster.
- (b) Newspaper tubes are permitted only if provided by the newspaper or of a construction or design that will not present a hazard to the public use of the right-of-way. Where the newspaper tube used has not been provided by the newspaper, the Building Inspector shall have the exclusive authority to approve the tube. If the Building Inspector refuses to approve the newspaper tube, it must be removed.
- (c) A nameplate bearing the name and address numbers of the mailbox owner shall be permitted on each box.
- (d) The support for the mailbox and newspaper tube shall adhere to the standards governing construction of mailbox supports as established by the Wisconsin Department of Transportation and shall not constitute a hazard to the public use of the right-of-way.
- (e) Mailbox and newspaper tubes must be located on the side of the road required by the United States Postal Service and, where practicable, to the left side of the driveway determined by facing the lot from the road. The door to the mailbox or protruding end of the newspaper tube should be a least one and one-half feet from the paved portion of the road.
- (f) The owner of each mailbox and/or newspaper tube shall, within twenty-four (24) hours after the end of each snowfall, remove all snow and ice which has fallen or accumulated in front of said mailbox and/or said newspaper tube and shall remove the snow for a distance of fifteen (15) feet to each side of said mailbox and/or newspaper tube.
- (g) No other object of any kind shall be attached to the mailbox, newspaper tube or their supports. No other objects, including, but not limited to, landscaping boulders or fences may be placed on the right-of-way.
- (h) This Section is not intended to and shall not be construed to create any affirmative duty on the part of the Town of Middleton to locate and remove obstructing mailboxes.

CHAPTER 4

Driveways; Culverts

SECTION 4-4-1 Driveway Permits; Culvert Requirements

SECTION 4-4-2 Driveway and Culvert Location, Design and Construction Requirements

SEC. 4-4-1 DRIVEWAY PERMITS; CULVERT REQUIREMENTS.

- (a) **Purpose.** For the safety of the general public, the Town of Middleton shall determine the location, size, construction and number of access points to public roadways within the Town limits. It is the Town's intent to provide safe access to properties abutting public roadways suitable for the property to be developed to its highest and best use, provided that access is not deficient or dangerous to the general public.
- (b) **Culvert Requirements.** No person shall construct any driveway or private road in a public right-of-way of the Town of Middleton without installing a culvert in full compliance with this section. Included within the scope of this requirement are commercial driveways.
- (c) **Driveway Permit Required; Application; Fee.**
- (1) Permit Requirement. No person shall locate, establish, or construct a private driveway, road, or other access from a private property line to the traveled portion of any public Town road without first filing an application and obtaining a driveway permit from the Town of Middleton.
 - (2) Application. Application for such permit may be made to the Town Clerk or Building Inspector. The request for such permit shall be in writing signed by the owner of the real estate affected and his agent and shall include design specifications and a drawing depicting the location and orientation of the proposed culvert in relationship to the real estate involved and the adjacent road, street, or highway.
 - (3) Review. The Town Engineer or his representative shall review all applications using this Chapter and the data and findings from the Driveway Inspection Report as shown in Section 4-4-2 in issuing driveway and culvert permits.
 - (4) Fee. At the time of making application for a driveway permit, the

applicant shall pay an application fee of Two Hundred Dollars (\$200.00).

(d) **Application Provisions.** All driveway permit applications shall contain the applicant's statement that:

- (1) The applicant represents all parties in interest, and that such proposed driveway is for the bona fide purpose of securing access to his property and not for the purpose of parking or servicing vehicles, advertising, storage or merchandising of goods within the dedicated portion of the Town road or street, or for any other purpose.
- (2) The Town, notwithstanding the construction of such driveway, reserves the right to make any changes, additions, repairs or relocations within the dedicated portion of the Town Road or street at any time, including relocation, reconstruction, widening and maintaining the street without compensating the owner of such private driveway for the damages or destruction of such private roadway.
- (3) The permittee, his successors or assigns, agrees to indemnify and hold harmless the Town of Middleton, its officials, officers, agents or employees, against any claim or any cause of action for personal injury or property damage sustained by reason of the exercise of such permit.
- (4) The Town does not assume any responsibility for the removal or clearance of snow, ice or sleet or the opening of any windrows of such material upon such portion of such driveway within the dedicated portion of the Town road or street.

SECTION 4-4-2 DRIVEWAY AND CULVERT LOCATION, DESIGN AND CONSTRUCTION REQUIREMENTS.

(a) **General Requirements.** The location, design and construction of driveways shall be in accordance with the following:

- (1) General Design. Private driveways shall be of such width and so located that all of such driveways and their appurtenances are within the limits of the frontage abutting the street of the property served. Driveways shall not provide direct ingress or egress to or from any street intersection area and shall not encroach upon or occupy areas of the street right-of-way required for effective traffic control or for street signs or signals. A driveway shall be so located and constructed that vehicles approaching or using it shall have adequate sight distance along the street. Driveway approaches shall be at least ten (10) feet apart except by special permission for the Town Board, and driveways shall in all cases be placed wherever possible as not to interfere with utilities in place. Concrete, timbers, boulders or stone shall not be placed at culvert endwalls. Culvert lengths shall be such as to provide for a maximum slope of 4:1 (4 feet horizontal to 1 foot vertical) from the driveway edge to the culvert end.
- (2) Construction. The non-asphalt portion of the driveway surface material shall end

at least 3 feet from the edge of the road pavement (adopted 6-21-04).

- (3) Number. The number of driveways to serve an individual residential or commercial property fronting on a street shall be one (1), except where deemed necessary and feasible by the Town Board for reasonable and adequate service to the property, considering the safety, convenience and utility of the street, and driveways may be approved for commercial and other use areas where deemed reasonable.
- (4) Island Area. The island area in the street right-of-way between successive driveways or adjoining a driveway and between the highway shoulder and right-of-way shall constitute a restricted area and may be filled in and graded only as provided in Subsection (5).
- (5) Drainage. The surface of the driveway connecting with street cross sections shall slope downward and away from the highway shoulder a sufficient distance to preclude ordinary surface water drainage flowing onto the street roadbed. No driveway apron shall extend out into the street further than the road edge or face of the curb, and under no circumstances shall such driveway apron extend into the gutter area where there is curbing. All driveway entrances and approaches shall be so constructed that they shall not interfere with the drainage of streets, side ditches, or roadside areas or with any existing structure on the right-of-way. All driveways and parking lots shall be graded in such way that no storm water reaches the roadway.
- (6) Restricted Areas. The restricted are between successive driveways may be filled in and graded only when the following requirements are complied with:
 - a. The filling or draining shall be to grades approved by the Town Engineer and, except where highway drainage is by means of curb and gutter, water drainage of the area shall be directed away from the street roadbed in a suitable manner.
 - b. Culvert extensions under the restricted area shall be of the same size and of equivalent acceptable material as the culvert under the driveway. Intermediate catch basins are required where the total culvert length is greater than three hundred (300) feet and/or where a bend or curve in the pipe is required.
 - c. Where no street side ditch separates the restricted area from the street roadbed, permanent provision may be required to separate the area from the street roadbed to prevent its use for driveway or parking purposes be construction of a border, curb, rail or posts as may be required by the Town Board.
- (7) Relocation of Utilities. Any costs of relocating utilities shall be the responsibility of the property owner with approval of the Town Board necessary before any utility may be relocated and the driveway installed.
- (8) Variances. Any of the above requirements may be varied by the Town Board in such instances where the peculiar nature of the property or the property or the design of the street may make the rigid adherence to the above requirements impossible or impractical.

(b) Special Requirements for Commercial and Industrial Driveways. The following regulations are applicable to driveways serving commercial or industrial establishments:

- (1) Width of Drive. No part of a private driveway located within the dedicated area of a public street shall, except as hereinafter provided, have a width greater than thirty (30) feet measured at right angles to the center line of said driveway, except as increased by permissible radii. In instances where the nature of the commercial or industrial activity or the physical characteristics of the land would require a driveway of greater width than herein specified, the Town Board in its discretion may permit a driveway of additional width.
- (2) Angular Placement of Driveway. The angle between the center line of the driveway and the curb line or road edge shall not be less than 70 degrees.

(c) Special Requirement for Residential Driveways. The following regulations are applicable to driveways serving residential property:

- (1) Width. Unless special permission is first received from the Town Board, or committee thereof, a residential driveway shall be no greater than twenty-eight (28) feet wide at the curb line or pavement edge and twenty-two (22) feet wide at the road right-of-way.
- (2) Angular Placement. The center line of the drive may be parallel to the property line of the lot where access is required or at right angles to the curb line.

(d) Appeal from Permit Refusal. Any person feeling himself aggrieved by the refusal of the Town Board to issue a permit for the private driveway may appeal such refusal to the Town Board within twenty (20) days after such refusal to issue such permit is made.

(e) Prohibited Driveways.

- (1) No person, firm or corporation shall place, construct, locate in, or cause to be placed, constructed or located in, any obstruction or structure within the limits of any public road, highway or street in the Town of Middleton except as permitted by this Section. As used herein the word “structure” includes private driveways, a portion of which extends into any public road, highway or street, and which is in non-conformance with this Chapter.
- (2) No driveway shall be closer than forty (40) feet to the extended street line at an intersection. At street intersections a driveway shall not provide direct ingress or

egress to or from the street intersection area and shall not occupy areas of the roadway deemed necessary by the Town for effective traffic control or for highway signs or signals.

- (3) The grade of that portion of any private driveway located within the limits of any public road, highway or street shall be such as shall meet the grade of the existing public roadway at its edge and not cause an obstruction to the maintenance or clearing of such public roadway.

(f) Culvert Construction Standards.

- (1) Size. Culverts shall be installed prior to construction work being commenced on the property served. No pipe smaller than eighteen (18) inches in diameter (or equivalent elliptical or arch pipe) will be allowed unless specifically permitted by the Town Engineer. All culverts shall be constructed of galvanized steel or reinforced concrete, and shall be of new manufacture, unless specifically permitted by the Town Engineer.
- (2) Gauge. The minimum wall thickness for the galvanized steel pipe culverts shall be in accordance with the following:

<u>Pipe Diameter</u>	<u>Gauge</u>
18 to 24 inch	16
30 to 36 inch	14
42 to 54 inch	12
60 to 72 inch	10
78 to 84 inch	8

The class of reinforced concrete pipe shall be in accordance with the following:

<u>Height of Cover</u> (in feet)	<u>Class of Pipe</u>
0-2	IV
Greater than 2 feet	III

- (3) Drainage. The culverts shall be placed in the ditchline at elevations that will assure proper drainage.
- (4) Endwalls. Culverts shall be provided with a precast concrete or prefabricated metal apron endwalls.
- (5) Backfill Material. Material used for backfill shall be of a quality acceptable to the Town Engineer and shall be free from frozen lumps, wood, or other extraneous or perishable materials. The minimum cover, measured from the top of the pipe to the top of the subgrade, shall be six (6) inches.
- (6) Erosion Control. Erosion control measures shall be implemented as

necessary to control erosion, or as directed by the Town Engineer.

- (7) Cost. The property owner shall install the culvert and be responsible for the cost thereof.
- (8) Appeal. Persons may request a variance from the culvert requirements of this Section by filing a written appeals request with the Town Clerk, who shall place the matter as an agenda item for the Town Board's next meeting. The Town Board may only waive the requirement for a culvert upon a finding that unique physical characteristics of the location in question render a culvert unnecessary. The Town Engineer may be asked to render an opinion on the request.

(g) Enforcement. All costs incurred by the Town relating to the enforcement of this Chapter or in making the determinations or inspections necessary hereunder shall be paid by the property owner, including, but not limited to, Town administrative costs and engineers' and attorneys' fees. Such costs shall be payable from the permit fee established in Section 4-4-1(c)(3) above. If a property owner refuses to comply with the Chapter, the Town may install the culverts and charge back the cost or additional cost thereof as a special charge pursuant to Sec. 66.60(16), Wis. Stats.

CHAPTER 5

Regulation of Parks and Navigable Waters

- SECTION 4-5-1 Park Regulations
- SECTION 4-5-2 Radio-Controlled Model Airplanes Prohibited in Parks
- SECTION 4-5-3 Use of Metal Detectors on Public Property
- SECTION 4-5-4 Fees and User Regulations
- SECTION 4-5-5 Public Utilities and Private Construction
- SECTION 4-5-6 Reservation of Park Space or Shelters

SECTION 4-5-1 PARK REGULATIONS.

- (a) **Purpose and Definition.** In order to protect the parks, parkways, recreational facilities and conservancy areas within the Town of Middleton 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, trail, recreation facility, public easement or conservancy district in the Town of Middleton.
- (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 Park Commission or the Town Administrator.
 - (3) Animals. No person having control of a dog, cat and other pet or horse shall suffer or permit such dog, cat, other pet or horse to enter or remain in any park (except parks and trails exempted by the Board where animals will be permitted subject to rules established by the Board) as defined in Sec. 4-5-1(a) of this Code. The Park Commission shall cause signs to be posted in parks notifying the public of this prohibition. The provisions of this ordinance shall not apply to blind, deaf or mobility-impaired persons being led by a dog specially trained, to lead blind or deaf persons or to provide support for mobility-impaired persons, or to dogs or horses used by or under local law enforcement officers in the course of official police business.
 - (4) Bill Posting. No person shall post, paste, fasten, paint 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 no 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 animals, wild or domestic, within any park. No person shall climb any tree or remove flowers or fruit, wild or cultivated, or break, 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, except for authorized maintenance vehicles, 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) 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.
- (12) Throwing Stones and Missiles Prohibited. No person shall throw stones or other missiles in or into any park.
- (13) Removal of Park Equipment Prohibited. No person shall remove benches, seats, tables, or other park equipment from any park.
- (14) Closing Hours. It shall be unlawful for any person to be or remain in any public park in the Town of Middleton between the hours of 10:00 p.m. to 6:00 a.m., provided, however, that the closed hours for trails not located in parks are from ½ hour after sunset to ½ hour before sunrise and further provided that this Subsection shall not apply to those parks which have regularly scheduled recreational activities which conclude after 10:00 p.m. The Park Commission and/or Town Board may be resolution permit specific parks to be open after 10:00

p.m. for designated events.

- (15) Speed Limit. No other person shall operate any vehicle in a Town park in excess of ten (10) miles per hour unless otherwise posted.
- (16) Firearms. Within a Town park it shall be unlawful for any unauthorized person to have in his possession or under his control:
 - a. Any firearm or airgun as defined in the Wisconsin Statutes and including gas operated guns, pellet guns or any device which will propel projectiles, unless the same is unloaded and enclosed in a carrying case.
 - b. An bow, unless the same is unstrung or enclosed in a carrying case or unless written permission has first been granted by the Town Board to use a bow in a specific, supervised sport or activity, and then only within a designated area, provided, however, that it shall be unlawful to engage in any sport or activity involving a strung bow that constitutes a safety hazard in the judgment of any law officer or town board personnel. Hunting is prohibited in all Town parks and recreational areas.
 - c. No person shall carry, shoot, fire or discharge any gun pistol, slingshot, rocket, torpedo, or any fireworks of any description within or into any park unless written authority is obtained from the Park Commission or Town Board and all required permits have been obtained.
- (17) Vending. Vending is prohibited in Town parks unless authorized by the Town Board.
- (18) Plant Materials. No unauthorized removal of any plant materials or plants from any park.
- (19) Structures. No temporary or permanent structures are to be erected in a park without specific approval of the Park Commission.
- (20) Snowmobiles. No person shall operate a snowmobile in a Town park except in designated areas. Snowmobiles shall only be operated on designated trails to conform with state statutes.
- (21) Golfing and Sporting Activities. No person shall golf or practice golf in a Town park or recreation area. All sporting activities must be held in areas so designated for that purpose.
- (22) Camping. No overnight camping shall be permitted in a Town park, unless written authority is obtained from the Park Commission or the Town Board.
- (23) Interference With Permit Holder. No person shall, in any manner harass, disturb, or interfere with persons holding written permits or reservations

approved by the Town Administrator or the Parks Commission for the use of park or recreation facilities or park shelters.

- (24) Dumping. No person shall dump or deposit any rubbish, refuse, earth or other material in a Town park except in designated containers. Coals from grills or any fires may not be placed in park containers and must be removed from the park or recreation area.

SECTION 4-5-2 RADIO-CONTROLLED MODEL AIRPLANES PROHIBITED IN PARKS.

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

SECTION 4-5-3 USE OF METAL DETECTORS ON PUBLIC PROPERTY.

Absent authorization by the Town Board, the use of metal detectors and digging for buried objects on Town property is prohibited.

SECTION 4-5-4 FEES AND USER REGULATIONS.

- (a) **Fee Schedule.** It shall be unlawful for any person to use any Town of Middleton park facility, shelter, land, or recreational area for which a fee or charge has been approved by the Board without payment of such fee or charge. Fees and charges shall be reviewed annually following a recommendation from the Park Commission.
- (b) **Special Fees.** Any park structure, facility, or area other than the above may be reserved or rented for special purposes subject to the approval of the Park Commission. Fees may be established for recreational programs where costs warrant them.
- (c) **Additional Rules.** Rules and regulations may be made from time to time by the Park Commission and/or Town Board governing the further use of and enjoyment of Town parks, parkways, playgrounds, campgrounds, and its facilities. Any person who shall violate such rules or regulations may be excluded from the use of such facility.
- (d) **Permits.** Any person to whom a permit shall have been issued by the Town Board or agent thereof shall be bound by the provisions of all ordinances and rules of the Town of Middleton as fully as though the laws were inserted in each permit.

SECTION 4-5-5 PUBLIC UTILITIES AND PRIVATE CONSTRUCTION.

- (a) **Public Utilities -- Location.** The location of all sewers and receivers, gas pipes, water pipes, stopcock boxes, hydrants, lamp posts, telegraph, telephone and electric power posts and lines, manholes, conduits, and pumps within any Town park or parkway shall be subject to the jurisdiction and control of the Town Board, and their construction, repair

or relocation shall be undertaken only after written permission is received from the Town Board or Park Commission.

(b) Private Construction.

- (1) No curb, whether stone, concrete, or gas, shall be cut for the purpose of constructing a private driveway across any parkway border, nor for any other purpose, without the written permission of the Town Board or Park Commission.
- (2) The location, width, grade, and construction of all paths, driveways, and roadways across any sidewalk bordering along any parkway shall be subject to the approval of the Town Board or Park Commission and constructed only after written permission is obtained from the Town Board or Park Commission.

SECTION 4-5-6 RESERVATION OF PARK SPACE OR SHELTERS.

- (a) Policy on Reservation.** The Town-owned park, park facilities and shelter areas are primarily for the nonexclusive use of the residents and visitors of the Town of Middleton. However, under proper circumstances, exclusive use of the same or parts thereof may be permitted. This Section is intended to regulate exclusive use of Town-owned parks, park facilities, shelters, or parts thereof in the Town to the end that the general welfare of the Town is protected.
- (b) Reservation Of Park Space.** A person or group, firm, organization, partnership, or corporation may reserve the use of a park, a park facility or shelter by written application filed with the Town Clerk for a permit for exclusive use of the same. The Clerk shall issue permits for exclusive use of a shelter, while the Park Commission shall issue permits for the exclusive use of Town parks. The Parks Commission shall annually establish a fee to be charged for the rental of any park shelter. Such fee shall apply to a rental period of twenty-four (24) hours or less.
- (c) Application.** Applications shall be filed with the clerk at least fourteen (14) days prior to the date on which the exclusive use of the entire park is requested, or at least three (3) days prior to the date on which a shelter is to be used, and shall set forth the following information regarding the proposed exclusive use:

 - (1) The name, address, and telephone number of the applicant.
 - (2) If the exclusive use is proposed for a group, firm, organization, partnership, or corporation, the name, address, and telephone number of the headquarters of the same, and the responsible and authorized heads or partners of the same.
 - (3) The name, address, and telephone number of the person who will be responsible for the use of the said park, area, or facility.
 - (4) The date when the exclusive use is requested and the hours of the proposed

exclusive use.

- (5) The anticipated number of persons to use the said park, area, or facility.
 - (6) Any additional information which the Park Commission finds reasonably necessary to a fair determination as to whether a permit should be issued.
- (d) **Deposit.** All applicants for reservation of park space or shelters for which a permit is required shall pay a security deposit of, as determined by the Parks Commission, to pay for the Town's maintenance and clean-up expense. The deposit shall be returned if cleanup or repair by the Town is not required. All cleanup and damage is the responsibility of the person reserving the shelter or park or recreation facility. If the Town is required to provide any cleanup or maintenance or repairs as a result of the activity included in the reservation or permit, the costs of such activities will be charged to the individual who reserved the shelter or park or recreation facility. Such charges shall include the costs of all materials and supplies required plus a labor charge that reflects the then current Town of Middleton labor rate including fringe benefits plus overhead. The deposit, or portion thereof, shall be returned when all cleanup, repairs and maintenance have been completed.
- (e) **Action On Application.** The Park Commission or appropriate designee thereof shall act promptly on all applications for permits for exclusive park use (not shelter use) after consulting with the applicant, if necessary.
- (f) **Reasons For Denial.** Applications may be denied for any of the following reasons:
- (1) If it is for a use which would involve a violation of federal or state law or any provision of this Code.
 - (2) If the granting of a permit would conflict with another permit already granted or for which application is already pending.
 - (3) If the application does not contain the information required by Subsection (c) above.
 - (4) The application is made less than the required days in advance of the scheduled exclusive use.
 - (5) If it is for a use of the park or park facility at a date and time when, in addition to the proposed use, anticipated nonexclusive use by others of the park or park facility is expected and would be seriously adversely affected.
 - (6) If the law enforcement requirements of the exclusive use will require so large a number of persons as to prevent adequate law enforcement to the park, park facility, or shelter area involved or of the rest of the Town.
 - (7) The exclusive use will reasonably create a substantial risk of injury to persons or damage to property.

- (8) The exclusive use is so poorly organized that participants are likely to engage in aggressive or destructive activities.
- (g) **Indemnification.** Prior to granting any permit for exclusive use of the park, the Town may require the permittee to file evidence of good and sufficient sureties, insurance in force, or other evidence of adequate financial responsibility, running to the Town and such other third parties as may be injured or damaged, in an amount depending upon the likelihood of injury or damage as a direct and proximate result of the exclusive use sufficient to indemnify the Town and such third parties as may be injured or damaged thereby, caused by the permittee, its agents, or participants.
- (h) **Permit Not Required For Town Activity.** A permit is not required for exclusive use of the park or a park facility sponsored by the Town.
- (i) **Permit Revocation.** The Town Board or Park Commission, after a permit is granted, may revoke a permit already issued if it is deemed that such action is justified by an actual or potential emergency due to weather, fire, riot, other catastrophe, or likelihood of a breach of the peace or by major change in the conditions forming the basis of the issuance of the permit.
- (j) **Form of Permit.** Each permit shall be in a form prescribed by the Town Board and shall designate the park, park facility, or shelter area involved, date, hours of the exclusive use, purpose of the exclusive use, and the name of the person, group, firm, organization, partnership, or corporation to which the permit is issued.