

**CHAPTER 15**

**PUBLIC WORKS**

**15.01 DRIVEWAYS AND CULVERTS - PERMITS REQUIRED, PERMIT FEES AND ESCROW FOR PERFORMANCE**

- (1) **Approval Required.** No person shall construct or maintain any driveway across any ditch, sidewalk or curbing or enter any road without first obtaining a driveway permit from the Town Board or a designated representative thereof including the Maintenance Inspector if so designated.

No building permit shall be issued nor excavation begun where a culvert shall be installed, unless prior thereto a permit for the proper size and type of culvert first be obtained from the Town of Menasha authority and the permit fees required by this ordinance and the escrow required by this ordinance have been paid to the Town. The actual placing and covering of the installed culvert shall be accomplished in accordance with the specifications of the Town and approval for the completed installation shall be required, in writing, from the proper Town authority designated to inspect the said installations.

- (2) **Permit Fee.** A culvert permit fee set forth in Appendix B Fee Schedule, reference this code section, shall be charged for the issuance of each permit designated for the installation of a driveway or culvert as set forth in Subsection (1). *[Amended 11/28/05]*
- (3) **Deposit Security.** At the time of issuance of any permit for a culvert under this section, the person receiving the said permit shall be required to deposit with the Town a security deposit set forth in Appendix B Fee Schedule, reference this code section, for the proper performance and installation of the culvert as required under all aspects of this ordinance. *[Amended 11/28/05]*

A fee shall also be deposited at the same time as the security deposit for the proper performance and maintenance of the ditch line during the time of construction.

The culvert security deposit shall be returned to the permit holder upon satisfactory installation of the culvert, as determined by the Town Building Inspector.

The ditch line security deposit shall be returned to the permit holder upon satisfactory completion of the major construction and landscaping work on the premises, as determined by Town Building Inspector.

- (4) **Procedure for Installation.**
  - (a) After the issuance of a permit, the Town shall, within five days, cause the staking of the grades

for the elevation of the culvert. That no culvert shall be installed until such staking has been completed.

- (b) The culvert shall be required to be installed according to the stakes established by the Town, its Maintenance Inspector or its Engineers.
- (c) Notice is required to be given by the person installing the said culvert within five days of the installation at which time the Town shall make an inspection to determine that the culvert was appropriately installed.
- (d) In the event of the failure of the permit holder to properly install the culvert, upon a finding by the Engineer or Maintenance Inspector of said improper installation, the contractor shall be given 30 days notice, in writing, to repair, modify or reinstall the culvert according to the specifications of the Town. At the expiration of the 30 days, the Town shall cause the culvert installation to be reinspected and charges of the re-inspection shall be borne by the contractor and shall be taken from the funds placed in escrow as provided in (3) above.
- (e) In the event that the contractor continues to fail to follow the specifications and has not repaired the improper installation within the period of 30 days following the written notice, the Town of Menasha shall retain the security deposit and shall thereafter move to install the culvert in the appropriate manner. The determination of the defective installation shall be made by the Engineer for the Town, in writing, to the Town Board. The entire amount of the remaining funds in escrow shall be forfeited to the Town upon failure to comply with the requirements of this Section 15, and which funds shall be applied to cover all costs of additional engineering, expenditures and work by the Town of Menasha, and costs of hiring the repairing and replacement of the culvert installation. The balance of funds left in the escrow amount, if any, shall be returned to the person taking out the permit. *[Amended 11/28/05]*

**15.015 DRIVEWAYS AND CULVERTS - EXTENSIONS FOR EXISTING CULVERTS**

- (1) **Permit Required.** No existing culvert installations may be extended without first obtaining a permit for the extension from the Town of Menasha or its designated agents.
- (2) Permit fees for the extension of existing culverts shall be an amount set forth in Appendix B Fee Schedule, reference this code section. Additional engineering charges may be assessed according to the terms and conditions of this section. *[Amended 11/28/05]*

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- (3) This section shall apply only where an existing culvert has been installed for a driveway or drainage in the ditches in the Town of Menasha. The connection of any pipe to either end of an existing culvert installation shall be considered an extension of that culvert installation.
- (4) Permit issuance shall be upon the following terms and conditions:
  - (a) No extension shall exceed ten (10) feet in length excluding endwalls except as provided in 15.015(e).
  - (b) No extension shall cause the existing culvert and its extension together to exceed a total length of forty (40) feet, excluding endwalls except as provided in 15.015(e).
  - (c) The officer issuing the permit shall first check the installation for unusual problems. In the event it is necessary to use the assistance of the Engineer for the Town, the officer shall obtain the agreement from the applicant that they shall deposit the estimated cost of engineering services before issuance of the permit. The applicant shall further be required to pay all necessary engineering costs related to the extension, including charges in excess of the required deposit estimated as the cost under this subsection.
  - (d) The permit officer shall have the right to refuse the extension permit if it is determined that the existing installation already constitutes an impediment to drainage or requires substantial adjustment in order to maintain adequate drainage flows, or that an addition or extension to the existing culvert would create an obstruction or impediment to existing drainage flows.
  - (e) On property which is zoned for Commercial or Industrial purposes, an extension of an existing culvert or the installation of a new culvert may be allowed which shall bring the total length of the driveway culvert to a maximum length of sixty (60) feet provided that the sixty (60) foot culvert length is necessary for ingress and egress of traffic. The total culvert length for driveways whose main function and/or purpose is for employee or customer parking is hereby limited to forty (40) feet. Any extension of an existing culvert or the installation of a new culvert made under the provisions of this section shall be subject to the installation of one or more cleanouts as determined by the permit officer after consultation with the Street Department.

**15.02 REGULATION OF TOWN CULVERTS**

- (1) The individual property owner shall pay the total cost of all culverts of 24 inches or less in diameter where

the installation thereof is on the right-of-way abutting the property owners' land.

- (2) Where the Town authorities determine a culvert is needed in excess of 24 inches in diameter, the Town shall pay the cost of the additional culvert size, and endwalls over 24 inches, amount to be determined as follows, in the form of a payment directly to the person installing said culvert. This payment is to be made upon the request of the person installing said culvert and shall be made following satisfactory inspection of the installation by the Town. Said payments to be authorized by the Town official issuing the permit, and the Town Board of Supervisors.
- (3) The property owner shall pay the total cost of installing such culverts including the cost of the culvert.
- (4) All culverts on Town roads in the Town of Menasha, Winnebago County, Wisconsin, shall be installed according to the grade set by the Town of Menasha Engineers.
- (5) Only galvanized steel culvert pipe and endwalls or reinforced concrete pipe and endwalls shall be allowed to be used for installations in the Town. The minimum length of any installation shall be twenty-four (24) feet of actual culvert pipe and the maximum length shall be forty (40) feet of actual culvert pipe, except that the sixty (60) foot maximum length allowed by 15.105(e) shall be allowed if all provisions of that section are applicable and all conditions are met. Other installations may be made in excess of forty (40) feet only on the permission of the Town Board and only under the conditions set for the installation by the Board. All installations shall be required to have endwalls on both ends of the culvert pipe. All descriptions of length hereunder do not include the endwalls and the extension of the endwalls beyond the end of the pipe is in addition to those lengths mentioned herein. This ordinance shall apply to all new installations after June 1, 1979, and shall apply to all replacement installations of culvert pipe after June 1, 1979.
- (6) The Town of Menasha Engineers shall designate the size and diameter of the culvert to be installed. In the event of disagreement by the owner with the Engineers, the owner may request the Town Board to review the matter and set the required diameter.
- (7) Installation Requirements.
  - (a) To protect the culvert from crushing, breaking or bending or any other damage, it is required that a minimum of 8 inches of crushed rock or gravel be placed on the top of the culvert.

- (b) In the event 8 inches of cover would bring the grade level too high, the installation of an arch, (oval) culvert pipe may be required by the Town Board.
- (c) Bedding and filling around the pipe and bedding and filling beneath the pipe shall be done with crushed rock, stone, gravel or other material approved by the Town Board but in no event shall dirt, clay or other loose ground be used.

**15.025 REGULATING AND ESTABLISHING CONDITIONS RELATED TO OCCUPANY OF TOWN ROAD RIGHT-OF-WAY [Added 5/8/06]**

**(1) Policy.**

It is the policy of the Town of Menasha, in and for the public interest, to permit Utility facilities to occupy road or street right-of-way and other Town easements owned by the Town, subject to the regulations and conditions in this ordinance to assure the Town unwarranted interference or conflicts with the Town's use of said right-of-way or easement. The regulations contained in this ordinance are to be implemented and enforced with the goal of eliminating or minimizing costs to the Town of Menasha. This policy acknowledges that Utilities operate with regulatory constraints and when resolving conflicts under this ordinance the Town shall consider, but is not bound to make decisions in accordance with said regulatory constraints.

**(2) Purpose.**

The purpose of this ordinance is to establish procedures for the implementation of Wisconsin Statute 84.063 and to prevent delays and/or costs from being incurred by the Town or the Town's contractors as it regards delay and expense to the scheduling of Utility relocations and establish the penalties and damages for violations as permitted pursuant to Wisconsin Statute 66.0831.

**(3) Notice.**

Utilities shall be presumed to have notice of this ordinance through its publication. The ordinance will be provided to all Utilities or any other entity permitted to install said Utilities within the right-of-way of any public street of the Town. Reference to these regulations shall be made in all permits to occupy any portion of a Town road right-of-way. Regardless of the date the Utility began occupancy, compliance with the regulations and conditions of this ordinance are required as a condition of continued occupancy of the Town's right-of-way or easement.

**(4) Definitions.**

*Utility* shall mean any public or private entity or Utility owning Utility facilities located in the Town right-of-way.

*Utility facilities* include any Utility pipe, pipeline, wire, cable, cable service, duct, conduit, fiber optics, radio signal or electrical transmission equipment and associated Utility plant and equipment, whether underground or above ground in the municipal right-of-way.

*Days* as used in this ordinance shall mean calendar days.

*Preliminary Plan* shall mean engineering diagrams, plans or specifications that are sufficiently detailed to allow a Utility to determine whether the Town's project will be in conflict with the Utilities' existing location.

*Final Plan* shall mean engineering diagrams, plans or specifications that are sufficiently detailed and contain construction plans upon which contractors can calculate and submit bids for the completion of the project and upon which the Utility can determine the relocation of Utility facilities and eliminate conflict with the Town's project.

*Conflict* shall mean that the Utility facility is located on the right-of-way or easement so as to interfere with the Town's project in such a way that proceeding with the Town's project will damage said Utility facility or has, in the opinion of the Town's engineers, the potential or possibility to cause damage to the Utility facility if not moved or protected.

**(5) Project work, accommodation or relocation procedures.**

(a) Within fifteen (15) days of the appropriation of funds by the Town Board to finance a roadway project or other Town project on a Town right-of-way or easement, the Town will send notice to all Utilities believed to have Utility facilities located in the Town road right-of-way. It shall be the obligation of the owner of the Utility facilities to notify the Town in writing within fifteen (15) days of the receipt of notice of the project, verifying that the Utility facilities are located in the project area of the Town right-of-way. Failure to respond shall mean that the Utility represents that it has no Utility facilities in the project right-of-way or easement and shall cause the Utility to be responsible for said representation and any penalties or damages incurred as a result of said representation.

(b) Upon completion of the preliminary engineering plans by the Town's engineer, but not less than twenty (20) days after the notice in Paragraph 5A, said plans shall be sent to all Utilities having notified the Town of having Utility facilities in the Town's road right-of-way or easement.

(c) Within thirty (30) days of mailing of the preliminary plan the Utility shall notify the Town of any conflict which may result in damage to the Utility facility as it relates to the Town's planned

construction and shall within forty-five (45) days after receiving the preliminary plan, submit a written work plan providing a proposed resolution of the conflict which will eliminate the conflict and potential for damage to the Utility facility without cost to the Town or shall negotiate a resolution of the conflict by agreement to pay costs to the Town to resolve that conflict. If the resolution and the agreement cannot be completed within forty-five (45) days the Utility may request in writing an extension of fifteen (15) days to resolve conflicts.

- (d) In the event the resolution of the conflict cannot be completed within sixty (60) days of the mailing of the preliminary plan, the Town Board of the Town of Menasha shall review the proposals for resolution of conflicts and shall direct and order a specific resolution deemed necessary in order to complete the Town's project, which resolution eliminates or minimizes cost to the Town and the Town taxpayer.
- (e) Not less than sixty (60) days after the mailing of the preliminary plan, the Town shall mail a final plan to the Utility having given notice that it has Utility facilities within the project area. The mailing of the final plan constitutes notice that the conflicts with the Town's project or the work to be done by the Town's contractor shall be eliminated within sixty (60) days in accordance with the resolution of the conflict under Paragraph 5C & D above. In the event unforeseen site conditions or other unforeseen circumstances necessitate a modification to the final plan the Town may follow the procedures commencing with Section 5 of this ordinance or in the alternative shall follow the emergency procedure under Section 6.

**(6) Emergency Procedures.**

These emergency procedures are applicable to all situations where circumstances create the need to relocate Utility facilities or protect Utility facilities located in the Town's right-of-way or easement and the nature of the circumstances constitute an emergency and do not allow for following the relocation procedure of Section 5. In the event the relocation of Utility facilities has been made necessary by emergency circumstances beyond the control of the Town and the Town is unable to comply with notice provisions of Section 5 of this ordinance the Town may declare the relocation to be an emergency relocation and so notify the Utility in writing by personal delivery. The Utility shall respond to the Town's emergency notice within twenty-four (24) hours and representative of the Utility shall meet with the Town representatives within forty-eight (48) hours of the notice and shall agree to a resolution of the Utility conflict to the satisfaction of the Town. If the Town and Utility fail to agree on a resolution the Town shall take the action it deems necessary to resolve the emergency and shall notify the Utility in

writing of the intended actions and the estimated cost and/or expense which will be incurred as a result of such action. The Town and Town's contractor shall keep a record of actual costs incurred and notify the Utility in writing of the actual costs. Failure to pay said cost or expense within sixty (60) days of notice thereof shall constitute a violation of this ordinance and shall be collected by the Town as forfeiture in municipal court as provided in Section 7 of this ordinance. In the event the Utility objects to the said action or the cost or expense related to said action the Utility may, within sixty (60) days from the date of the notice of said actual cost and/or expense file a declaratory action with the Circuit Court of Winnebago County. The Court shall determine the amount of the forfeiture to be assessed to the Utility based upon the expense or cost incurred by the Town or the Town's contractors that resulted from relocation and/or protection from damage of the Utility's facility or alteration of the Town's plan or project to avoid damage to the Utility facility.

**(7) Penalties.**

- (a) Utility that fails to eliminate the conflict by such actions that are in compliance with this ordinance and approved by the Town within the time period required by this ordinance shall be deemed to be in violation of this ordinance and shall cause the Utility to be liable as and for a forfeiture, to the Town for all cost and/or expense to the Town resulting from the failure to comply.
- (b) A Utility found to be in violation of this ordinance shall forfeit not more than an amount set forth in Appendix C Fines and Penalties, reference this code section, for each violation in addition to the forfeiture damages set forth in Paragraph 7A.

**\*15.03 EXCAVATIONS, ALTERATIONS OR OBSTRUCTIONS WITHIN TOWN OF MENASHA RIGHT-OF-WAY [Amended 10/25/93]**

- (1) No individual, partnership or corporation shall cause any excavation, alteration or obstruction (excluding trees - see 15.13) within Town of Menasha right-of-ways or easements without first obtaining a construction/excavation permit application and subsequent approval by the Town Street Superintendent or Town Administrator. No rock gardens, boulders, benches or fences shall be built or maintained in any public right-of-way.
  - (a) **Utility Service Connections:** A non-returnable fee set forth in Appendix B Fee Schedule, reference this code section, shall accompany the construction/excavation permit application for the installation of utility services to the utility main. A detailed drawing, showing all existing utilities, structures and improvements into the proposed

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- installation area, including the proposed location of the new work, shall accompany the permit application. *[Amended 11/28/05]*
- (b) **Utility Mainline Extensions:** A non-returnable fee set forth in Appendix B Fee Schedule, reference this code section, shall accompany the construction/excavation permit application for the installation of utility mainline extensions. A detailed drawing, showing all existing utilities, structures and improvements in the proposed installation area, including the proposed location of the new work, shall accompany the permit application. The drawing shall bear a signature from an authorized representative of the Town of Menasha Utility District, verifying mutual design and planning of the proposed mainline extension with regard to existing underground utilities. *[Amended 11/28/05]*
- (c) **Street Light Installation:** Exempt from Fee: There shall be no permit fee for the installation of streetlights requested by the Town and the above-described fees in (a) and (b) shall be waived for installation of streetlights.
- (2) The construction/excavation permit shall be reviewed by the Town Street Superintendent or designee who shall prepare a written report with a recommendation as to approving or denying the requested permit. Upon approval of the permit by the Street Superintendent, Town Administrator or designee, the Street Superintendent shall issue a construction/excavation permit to the applicant. The applicant shall notify the Street Superintendent 48 hours prior to commencing work.
- (3) For the purpose of this section, Town of Menasha right-of-ways and easements are construed to be areas as designated by the Town of Menasha official map and recorded as such in the Town records.
- (4) The Town Street Superintendent shall prescribe the conditions under which the excavation, alteration or obstruction shall be made and it shall be the duty of the Street Superintendent to ensure that all conditions of the approved permit are complied with strictly and that the work is completed in a timely manner. A final inspection of the completed restoration and clean-up shall be made by the Street Superintendent.
- (5) Before a construction/excavation permit may be issued under this section, the applicant receiving the said permit shall deposit with the Town Clerk's Office a security deposit as set forth in Appendix B Fee Schedule, reference this code section, for the proper performance, installation and restoration of the work as defined in the approved said permit. An annual security deposit may be given under this section exclusively covering utility service connections by the principal for one (1) year, beginning January 1, which shall be conditioned as specified below. *[Amended 11/28/05]*
- (a) The construction/excavation security deposit shall be returned to the applicant upon satisfactory completion of the project and restoration work, as determined by the Street Superintendent. *[Amended 11/28/05]*
- (b) In the event of the failure of the applicant to properly perform the conditions of the approved said permit, the Street Superintendent shall give to the applicant a thirty (30) day notice, in writing, to repair, modify or restore said conditions according to the specifications of the Town of Menasha. At the expiration of the thirty (30) days, the Town, or its contractor, shall perform the necessary repair, modification or restoration, as determined by the Street Superintendent, and shall deduct the cost of said repair, modification or restoration from the construction/excavation security deposit. The balance of funds left in the escrow account, if any, shall be returned to the permit applicant.
- (6) Before a construction/excavation permit may be issued, the applicant must execute and deposit with the Town Clerk an indemnity bond, approved by the Town Chairman, in an amount set forth in Appendix B Fee Schedule, reference this code section, conditioned that he shall indemnify and save harmless the Town of Menasha and its officers from all liability for accidents and damage caused by any of the work covered by his permit, and that he shall fill up and place in good and safe condition all excavations and openings made in the road, and shall 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 shall pay all fines imposed upon him for any violation of any rule, regulation or ordinance governing road openings or drain laying adopted by the Town Board, and shall 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 bond shall also guarantee that if the Town shall elect to make the road repair, the person opening the road shall pay all costs of making such repair and of maintaining the same for one (1) year. Recovery on such bond for any accident, injury, violation of law, ordinance, rules or regulation shall not exhaust the bond but it shall cover any and all accidents, injuries or violations during the period of excavation for which it is given. An annual bond may be given under this section covering all excavation work done by the principal for one (1) year beginning January 1, which shall be conditioned as specified above and in the amount determined by the Town Board as necessary to adequately protect the public and the Town. *[Amended 11/28/05]*
- (7) Before a construction/excavation permit may be issued, the applicant must furnish the Town Clerk with

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written evidence that he has in force and shall maintain during the course of the work, public liability insurance of not less than \$100,000.00 for one person, \$300,000.00 for one accident, and property damage insurance of not less than \$100,000.00.

- (8) Signs, guardrails and other appurtenances within the Town right-of-way limits shall be removed and/or installed by Town personnel only. The applicant must give a one (1) week advance notice to the Street Superintendent for the removal of such signs, guardrails, etc., that obstruct or interfere with the applicant's ability to perform the work and conditions of the permit. The cost of such removal shall be borne by the applicant and deducted from the construction/excavation security deposit. The cost shall be based on a per cost fee set forth in Appendix B Fee Schedule, reference this code section, which shall include removal and installation. *[Amended 11/28/05]*
- (9) In the event of unauthorized excavations, alterations or obstructions within Town of Menasha right-of-ways, the individual partnership or corporation causing such excavation, alteration or obstruction, shall be fined an amount set forth in Appendix B Fee Schedule, reference this code section, for each violation or infraction thereof. *[Amended 11/28/05]*

**15.035 DITCH MAINTENANCE**

- (1) This ordinance and regulation shall apply to all property owners in the Town of Menasha owning property which abuts upon any ditch or natural water course which exists upon easements for roads or ditches in the Town of Menasha. The requirements of this ordinance shall exist and obligate the property owner relevant to the maintenance of the said ditches or watercourses, for all such ditches or watercourses within fifty (50) feet of the property line of said property. In the event the easement is less than one-hundred (100) feet and is bordered on two sides by private property owners, each property owner shall be responsible for that one-half of the easement adjacent to his property.
- (2) Any property owner in the Town of Menasha who has property which abuts any ditch or water course as described above shall be responsible to maintain the said water course and/or ditch to allow the free, open and continuous flow of water through the said ditch or water course.
- (3) Where there occurs in the said ditch or water course any accumulation or deposits of materials or vegetation other than naturally deposited snow and/or ice which shall create a condition that shall cause the obstruction, diversion, or blockage, temporary or otherwise, of water, which blockage causes the backing up of the water flow or stagnation of the water, or causes the said water to flow upon property of another or of the Town of Menasha outside of the

area of the said easement for said ditch or water course, shall be required to remove such blockage, obstruction or materials causing diversion within 48 hours of notice in writing from the Town of Menasha, whichever is later. If the owner of the said property or premises shall fail to remove such blockage, obstruction or diversion as required by this section, the Town of Menasha, under the direction of the Town Board and Town Street Department, shall do said work and the expense thereof shall be calculated and shall be made a special tax upon the property adjacent to which the work was done pursuant to the above definition of areas of responsibility of the property owners, except for Main Drainageways A-Q as shown on the map which is kept on file in the Town Clerk's Office.

- (4) Ditches may be enclosed with the installation of an appropriately sized pipe or culvert upon the request of the abutting property owners and the approval of the Town of Menasha Board of Supervisors. The full cost of such an installation and restoration shall be borne by the property owners requesting same. Recommendation on the project must be given by the Town's Engineer and the Town Street Department prior to commencement of the work and must be inspected during the installation, along, with final inspection. All costs of clearing, ice removal, and other maintenance work shall be borne by the abutting property owners.\*

**15.04 TOWN WORK EXCLUDED**

The provisions of this ordinance shall not apply to excavation work under the direction of the Maintenance Supervisor by Town employees or contractors performing work under contract with the Town necessitating openings or excavations in Town roads.

**15.05 EXCAVATION IN NEW ROAD LIMITED: EMERGENCY EXCAVATIONS**

Whenever the Town Board determines to provide for the permanent improvement or repaving of any road, such determination shall be made not less than 30 days before the work of improvement or repaving shall begin. Immediately after such determination by the Town Board, the Road Supervisor shall notify in writing each person, utility, Town departments including sanitary and utility districts or other agency owning or controlling any sewer, water main, conduit or other utility in or under said road or any real property abutting said road, that all such excavation work in such road must be completed within 30 days. After such permanent improvement or repaving, no permit shall be issued to open cut, or excavate said road for a period of five (5) years after the date of improvement or repaving unless in the opinion of the Road Supervisor an emergency exists which makes it absolutely essential that the permit be issued. In the event of an emergency any person owning or controlling any sewer, water main, conduit or utility in or under any road and his agents or 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 shall apply for an excavation permit not later than the end of the next succeeding business day and shall not make any permanent repairs without first obtaining permit hereunder.

**15.06 OBSTRUCTIONS AND ENCROACHMENTS**

- (1) No person shall encroach upon or in any way obstruct or encumber any road, alley, sidewalk, public grounds or land dedicated to public use, or any part thereof, or permit such encroachment or encumbrance to be placed or remain on any public way adjoining the premises of which he is the owner or occupant.
- (2) **Exceptions.** The prohibition of subsection (1) shall not apply to the following:
  - (a) Signs or clocks attached to building which project not more than six (6) feet from the face of such building and which do not extend below any point ten (10) feet above the sidewalk, road or alley.
  - (b) Awnings which do not extend below any point seven (7) feet above the sidewalk, road or alley.

- (c) Public Utility encroachments duly authorized by state law or the Town Board.
- (d) Excavations and openings permitted under Sections 15.01 and 15.02.
- (3) No person shall allow, permit or cause the accumulation of any materials in or upon the roadways or road ditches of the Town which in any manner obstruct the flow of water causing diversion of water from said ditch or causing the stagnation of water flowing therein.

**15.065 DEPOSITING OF SNOW ON PUBLIC RIGHT-OF-WAYS**

- (1) No person shall remove or caused to be removed any snow or ice from a premises owned or occupied by that person or from any residence, parking lot, parking area, filling station, business property or other property owned or occupied by said person by placing the said snow onto the traveled portion of any public right-of-way, including paths and walkways. Snow removed from public walks shall not be stored in any manner which shall obstruct or limit vehicular or pedestrian vision, movement or access.
- (2) No person shall deposit any snow or ice upon the traveled portion of any sidewalk, alley or road or street of the Town of Menasha contrary to the provisions of this chapter. It is hereby made to be a nuisance and the Town of Menasha Police Department shall be empowered to issue citations for this violation, the penalty for which shall be amounts set forth in Appendix B Fee Schedule, reference this code section. In addition to the penalties provided for the violation of this section, the Town of Menasha may summarily remove any snow or ice so deposited and cause the cost of said removal to be charged to the owner of the property from which the said snow or ice has been removed and upon failure to pay the same said may be charged as a special assessment upon the tax bill to the owner of the property from which the snow or ice removal was necessitated. *[Amended 11/28/05]*
- (3) Sidewalks to be Kept Clean
  - (a) The owner and occupant of any lot or parcel in the Town abutting upon a public sidewalk shall, within 24 hours after the cessation of any storm during which snow has fallen, remove or cause to be removed from the portion of such sidewalk abutting his property all snow and ice which accumulated thereon.

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- (b) If any such owner and occupant fails to remove or cause to be removed such accumulated snow and ice within the 24-hour period, the Town of Menasha Police Department shall give written notice to said owner to remedy the situation which shall be served personally or posted at the premise. Said notice shall specifically state that the period of time within which the action must be taken in 24 hours from the time of notice. *[Adopted 3/11/96]*
- (c) If the owner and occupant refuses or neglects to follow the order of the Town, the Town may remedy the situation and shall report the full cost thereof to the Town Clerk who shall thereupon bill such cost against the property owner and, if not paid, shall charge the owner (plus interest at an amount set forth in Appendix B Fee Schedule, reference this code section, per month) by special assessment to the property. *[Amended 11/28/05]*
- (4) No person shall interfere with the accessibility to a fire hydrant by piling or dumping materials (including snow or ice) near it without first obtaining permission from the appropriate municipal authority. The material piled or dumped near the hydrant includes snow and ice removed from private property. Every day during which such interference continues, constitutes a separate offense.

**15.067 MAILBOX DAMAGE**

- (1) Mailboxes, driveway culverts, driveway surfaces (other than gravel), fences, trees or shrubbery, or any other item or object installed in the road right-of-way, even if installed with the required Town permits.
- (2) The Town assumes no responsibility for the replacement or repair of any such items where such loss, damage, or injury to such items is the result of Town operations including maintenance, snowplowing, construction or reconstruction of roadways or ditches, which work is being performed by the Town or the Town's contractor on the Town's road right-of-ways, road surfaces, road right-of-ways, and ditches.

**15.07 STREET PRIVILEGE PERMIT**

- (1) Permits for the use of the roads, alleys, sidewalks or public ways or places of the Town may be granted to applicants by the Town Board for the purpose of moving any building or structure or of encumbering the road alley, sidewalk or way with materials necessary in and about the construction or demolition of any building or structure, provided that such applicant has complied with the other requirements of the subsection and has obtained a building permit if required by the code.

- (2) No road privilege permit shall be issued until the applicant shall execute and file with the Town Clerk a bond in an amount determined by the Town Board, conditioned that the applicant shall indemnify and safe harmless the Town of Menasha from all liability for accidents or damage caused by reason of operations under said permit and shall leave the vacated premises in a clean and sanitary condition and repair any and all damage to the roads, alleys, sidewalks or public property of the Town resulting from such building or moving operations.
- (3) The fee for a road privilege permit shall be an amount set forth in Appendix B Fee Schedule, reference this code section. *[Amended 11/28/05]*
- (4) The permission to occupy or obstruct the roads, alleys, sidewalks or public grounds is intended only for use in connection with the actual erection, alteration, repair, removal or moving of buildings or structures and shall be given upon the following terms and conditions and subject to revocation without notice by the Town Board for violation thereof:
  - (a) Such temporary obstruction shall cover not more than 1/3 of any road or alley.
  - (b) Obstructions shall be sufficiently lighted at night so as to be in full view of the public from all directions.
  - (c) The process of moving any building or structure shall be as continuous as practicable until completed, and if ordered by the Town Board, shall continue during all hours of the day and night.
  - (d) No building or structure shall be allowed to remain overnight on any road crossing or intersection or so near thereto as to prevent easy access to any fire hydrant.
  - (e) Buildings shall be moved only in accordance with the route prescribed by the Town Board.
  - (f) Upon termination of the work necessitating such obstruction, all parts of the roads, alleys, sidewalks or public grounds occupied under the permit shall be vacated, cleaned of all rubbish and obstructions and placed in a safe condition for public travel at the expense of the permittee.
- (5) Termination. All road privilege permits shall automatically terminate at the end of three (3) months from the date of issuance unless an earlier termination date is specified thereon at the direction of the Town Board.



- (6) In addition to any other penalty imposed, if the owner or occupant of the premises adjoining any unlawfully obstructed road shall refuse or neglect to remove such obstruction within 24 hours after notice from the Town Board to do so, it shall be the duty of the Town Board to direct removal of such obstruction and make return of the cost and expense thereof to the Town Clerk who shall enter such cost on the next annual tax roll as a special charge against the property abutting such obstructed road, and such sum shall be levied and collected as other special taxes against real estate.

discretion based upon the circumstances of each special assessment project, and include, but are not restricted to the following:

- (1) Front Foot basis
- (2) Per parcel basis
- (3) Area-wide basis
- (4) Square foot basis
- (5) Impervious surface (hydraulic acre) basis

**15.08 ROAD RECONSTRUCTION AND SPECIAL ASSESSMENTS** *[Revised 1/22/01]*

- (e) A Public Hearing shall be held pursuant to Chapters 60 and 66 WI Stats., as now in force and effect or as hereinafter amended, by the Town of Menasha Board of Supervisors prior to ordering the special assessments permitted by this chapter and prior to start of actual construction.

- (1) All special assessment taxes levied by the Town shall be paid by the owner of the property being assessed in the following manner, unless otherwise determined by the Town Board of Supervisors prior to any Town public works project:

- (2) **Street/Roads:** Town of Menasha street/road assessment policy shall be as follows:

- (a) In equal annual installments over a period not to exceed ten (10) years unless extended by Town Board, but no installment shall be less than an amount set forth in Appendix B Fee Schedule, reference this code section, except the last installment. *[Amended 11/28/05]*

The Town of Menasha shall build all collector and arterial streets to Town specifications, currently requiring a minimum road width of 37 feet back-to-back with curb and gutter. The Town reserves the right to determine the actual road profile of a reconstruction project based on Average Daily Traffic count (ADT), as well as projected growth in the area. This may include turn lanes and medians if necessary for safe traffic flow.

- (b) The Town shall invoice the owner of the property. Interest shall run on all unpaid installments from the date of the special assessment invoice, unless the special assessment invoices are paid by the due date. Unpaid special assessment invoices shall be included on the tax bill for the predetermined amount of installments at the percentage rate set forth in Appendix B Fee Schedule, reference this code section, per annum over the borrowed interest rate of the Town for the project. *[Amended 11/28/05]*

The Town of Menasha shall resurface a Town road when the surface conditions warrant resurfacing. The Town shall attempt to adhere to a pre-determined schedule for resurfacing existing roads. The Town shall reconstruct a Town road when the ADT reaches a pre-determined amount. The average daily traffic count for a major collector is 2,500 to 3,500 vehicles per day. This system is devised to drive the decision making process through an analysis of road condition and traffic volume data.

- (c) The Town's standard method of calculating special assessments shall use the following formula:

$$\text{ASSESSABLE COST} / \text{ASSESSABLE FRONTAGE} = \text{PER FOOT ASSESSMENT}$$

That the above determined per foot assessment shall then be applicable to assessable footage within the Town's jurisdiction for each such public works construction project. Provided further, that any outside funding received by the Town of Menasha for the project(s) shall be spread proportionally over the Town and assessable portions of the project. In the event the outside funding is applicable to only a portion of the project, the funding shall be applied to the particular item whether it is within the Town or assessable portion of the project.

The Town shall pay to replace existing roads, regardless of increased width. This policy assumes that the affected property owners have already paid for a road and do not require an increased pavement width to service their property. The width of the road is driven by additional development and traffic volume, not necessarily by those who abut the road. This policy includes local roads (subdivisions). Whether the local road requires an overlay that includes milling or pulverization shall be made by the Town Board of Supervisors on a case-by-case basis and based on data provided by the Street Superintendent and the Pacer Ware rating for the road. The Town shall pay the full cost for a local road resurfacing. When a full reconstruction of a local road is necessary and includes improvements not already installed, the Town shall pay the costs associated with the road and all new improvements shall be assessed against the abutting properties. This includes but is not limited to improvements such as storm water pipe, curb and gutter and recreation trails or sidewalks.

- (d) The Town of Menasha's Town Board may utilize the following assessment options/methods at its

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The Town shall strive to resurface local roads on a scheduled basis assuming the life of an asphalt road is approximately 20 years. The Town shall utilize the Pacer Ware computer program to assist in determining which roads are scheduled for resurfacing. The Town shall consider resurfacing of a road when the Pacer Ware rating is a five (5) or below.

Town shall assess affected property owners for the full amount associated with the installation of curb and gutter, pedestrian trail on one side of the road, and storm sewer pipe to a 24" equivalent when these improvements are not currently in place. This assumes that the affected property owners are only paying for those infrastructure improvements that they do not presently enjoy.

The Town Board reserves the right to determine when a road is reconstructed regardless of the ADT, based on budgetary constraints.

The cross sections (road profile) for a local road and a standard 37' wide arterial road are included in this chapter and adopted by specific reference.

- (3) **Sidewalks:** The Town of Menasha's sidewalk assessment policy shall be as follows:

The full cost for the construction of a sidewalk or recreation trail shall be assessed against the abutting property owner(s). Any grant money received by the Town toward the construction of a sidewalk or recreation trail shall be deducted from the overall project cost before the assessment is calculated on a per-lineal foot basis.

- (4) **Storm Water Assessment:** The Town of Menasha shall assess for the installation of storm water drainage pipe as follows:

- (a) "Assessment Area" shall be defined as follows:
  - (1) Any platted subdivision (development) to be served by storm sewer, or
  - (2) Any other area that is not a platted subdivision as determined by Town's Engineer, which is to be served by storm sewer.
- (b) The following items shall be fully assessed to all property owners in the "assessment area":
  - (1) Storm sewer mains 24-inch diameter and less.
  - (2) Storm sewer manholes 4-foot diameter.
  - (3) All appurtenances including inlets, catch basins, yard drains, and leads.
  - (4) All roadway and lawn restoration costs.
  - (5) Engineering, legal, and administrative fees.
  - (6) Storm sewer laterals for sump pumps. (One sump pump lateral per parcel)

- (c) Storm sewer mains greater than 24-inch diameter shall be assessed using the following formula:

Cross-sectional area of 24-inch diameter pipe divided by the cross-sectional area of the storm sewer pipe greater than 24-inch diameter equals percentage of pipe cost to be assessed.

- (d) Storm manholes greater than 48-inch diameter shall be assessed using the following formula:

Cross-sectional area of 48-inch diameter manhole divided by the cross-sectional area of the manhole greater than 48-inch diameter equals percentage of manhole cost to be assessed.

- (e) Storm sewer shall be assessed on a front foot basis unless determined otherwise by the Town Board of Supervisors. Assessment rate is defined as total assessable cost divided by assessment frontage. Assessable frontage shall be determined by the same methodology used for street construction or reconstruction. Multiple fronted lots shall be assessed for frontages where storm sewer is installed in street right-of-way, even if storm sewer is not installed adjacent to the particular property. More than one sump pump lateral per parcel shall be individually charged to the particular parcel.

- (5) **Ditches:** The Town of Menasha shall bear the full cost of maintaining its storm water drainage system.

- (6) **Special consideration:** Applicable to pavement, curb, and gutter projects only:

- (a) Multi-fronted lots. Assessment shall be adjusted for multi-fronted lots in the following manner:  
Multiple-fronted lots: Frontage on any constructed side in excess of one hundred (100) feet shall receive a seventy-five (75%) percent forgiveness, up to a maximum of one hundred (100) feet.

This multiple-fronted lot formula shall apply to each side of the lot.

- (b) Prohibited access. Any lot with frontage on a road, where access to said road is prohibited by a governing body, shall have no assessment for said road reconstruction project as to that portion of the project dealing with pavement, curb and gutter.

- (c) Irregular Lots. Triangular lots and lots on cul-de-sac streets shall be assessed for pavement, curb and gutter projects only based on the following:

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- (1) When special assessments are based upon a front foot basis, the frontage calculation for irregularly shaped lots shall be as follows: When the actual frontage is more or less than the average width of a lot (measured by dividing the total lot area by the average depth), the frontage calculation for assessment purposes shall be based on average width but in no event shall the assessment be for less than 75 feet of frontage.
  - (2) The frontage calculation for triangular parcels of land shall be established by dividing the total lot area by the average depth of the adjoining parcels along the same frontage, but in no event shall the assessment be for less than 75 feet of frontage.
  - (d) Non-identified shaped lots shall be determined individually by the Town Board prior to assessment as applicable to pavement, curb and gutter projects.
  - (e) If a multi-fronted lot is split into two (2) or more parcels prior to completion of construction and assessment, the newly created interior lot(s) shall be subject to full frontage assessment, without consideration for any credits under any of the above section and subsections.
  - (7) All of the above sections and subsections dealing with credits for multi-fronted lots, etc., in particular Subsections 15.08 (6) and 15.08 (6) (e) through (f) shall not be applicable under 15.10, where 15.10 is then applicable to first and final paving within a subdivision or under any situation where first and final paving is the responsibility of a subdivider or owner creating a street by certified survey map, etc.
  - (8) Special Assessments Payable in the Event of Annexation
    - (a) Under the preceding, code Subsections of 15.08, the Town of Menasha shall bear a share of construction project costs. All Final Special Assessment Resolutions, shall provide that as to each abutting property owner involved in a particular assessable construction project within the Town of Menasha, who bear any assessment for public improvements payable in installments, the annual installments shall be increased by a proportionate share of construction project costs previously paid by the Town of Menasha in those circumstances where an abutting property owner's property is annexed to a neighboring municipality and where said annexation takes place at any time during the period commencing from the date of adoption of the Final Special Assessment Resolution, and when installment special assessments remain due and payable to the Town of Menasha from abutting property owners. For those abutting property owners who have paid lump sum, this deferred assessment shall also become then due and payable upon annexation.
    - (b) Any Town of Menasha construction project costs previously paid by the Town of Menasha and then assessed to an abutting property owner because of annexation under Subparagraph (a) above shall be computed by the Town of Menasha, written notice thereof shall be given to the abutting property owner and the amount so computed and assessed shall be payable immediately.
    - (c) The Engineer's report, available at the date of Public Hearing, following adoption of the Preliminary Special Assessment Resolution, shall set forth the application and projected additional assessment costs that may be caused by an annexation under the terms of 15.08 (8).
  - (9) Nothing in this ordinance shall be deemed as a waiver at the Town's ability to impose assessments in a manner consistent with Wisconsin law or other applicable law including, but not restricted to the Town's ability to exercise its police powers under Chapter 60 and 66, WI Stats.
  - (10) If any portion of this section, 15.08, is declared unconstitutional or invalid, said declaration shall not invalidate those remaining portions of Section 15.08 and said remaining portions shall remain in full force and effect.
- 15.09 PARKING LOT RESTRICTIONS** *[Revised 1/22/01]*
- (1) Parking of automobiles or other motorized vehicles on private premises shall be so regulated as to not interfere with the use of any town road or public right-of-way. Where parking lots or areas are located immediately adjacent to a public road or right-of-way, a physical divider shall be placed at the end of the parking lot or area adjacent to the public road to prevent invasion of the public right-of-way. Points of ingress or egress to private parking areas shall be plainly marked and no single parking area shall have more than one point of ingress or egress per 100 feet along such public road. The physical barriers shall not be less than two (2) feet above the parking lot surface. Applications for variations of the number or distance of points of egress or ingress may be granted in writing by the Town Board. The owner of any such premises shall be liable hereunder.

- (2) Violations of this section shall be punishable by the imposition of a fine or forfeiture set forth in Appendix C Fines and Penalties, reference this code section, for each day of violation. Upon a finding of guilty of a violation hereunder and failure to pay the forfeiture imposed, said convicted person may be imprisoned for a period not to exceed ten (10) days for each violation.

**15.10 NEW TOWN ROAD REQUIREMENTS**

*[Revised 1/22/01]*

- (1) No Town road shall be accepted by dedication or deed unless the person desiring to dedicate and deed to the Town the said road shall have first obtained the approval of the Town Board of the points of access to existing Town roads and shall have improved the said roadway to the grade and road base requirements of the Board.
- (2) The liability for accident or injury occurring upon any proposed roadway shall be the liability of the owner until both dedication and deeding are completed and accepted by the Town Board.
- (3) Failure to obtain and comply with Town Board requirements shall constitute basis for refusal to accept said dedication and/or deed. Roads shall not be maintained by the Town of Menasha until dedication and recording of the deed are completed and accepted by the Town.
- (4) **Street Light Installation**
- (a) All new streets within the Town of Menasha shall have streetlights installed at the time the street is constructed in accordance with the Town of Menasha street lighting policy (see end of chapter).
- (b) The cost of installation shall be paid by the developer in accordance with the procedures listed in the Town of Menasha Developer's Agreement.
- (5) All of the terms and conditions of 15.08(9) created June 8, 1987 are incorporated within 15.10, as if set forth herein in full.
- (6) All new Town public roads and streets shall be installed by either 1) private construction contract (as more fully described below),
- (7) Private construction of all new roads and streets intended to be dedicated as public shall be as follows:
- (a) Prior to the construction of any road or street in the Town of Menasha (hereinafter referred to as "Town") intended to be dedicated as a public road or street, the developer/owner (hereinafter referred to as "Developer") shall enter into a "Roadway Development Agreement / Development Agreement" (hereinafter referred to

as "Agreement") with the Town. The Town of Menasha Board of Supervisors shall establish the Agreement by resolution, and the content and form of the Agreement may be modified on a case-by-case basis at the sole discretion of the Town of Menasha Board of Supervisors. The Agreement shall be approved by the Town prior to the commencement of construction of the street or road. The Agreement shall include, but shall not be limited to, the following provisions:

- (1) The Developer shall provide a financial guarantee to the Town to pay for the cost of any and all phase(s) of street construction the Developer intends to complete pursuant to the Agreement. The financial guarantee shall be approved by the Town prior to the commencement of construction of any portion of the street or road. The financial guarantee to the Town shall be provided in any of the following forms:
- Irrevocable letter of credit.
  - Escrowed funds with the Town of Menasha.
- (2) The financial guarantee described above shall be in an amount sufficient to pay for the entire construction costs of the road and/or street and contingencies as determined by the Town Engineer.
- (b) The Developer shall make written application to the Town of Menasha for construction of a new road, including storm sewer, indicating location, use, name, type of surface, desired time schedule, indication of Planning Commission approval and detailed construction plan. The construction plans must meet the Town requirements contained in the "General Specifications, Town of Menasha" that are in effect at the time of application. Further provisions concerning the written application to the Town shall be as follows:
- (1) The plans shall include all drainage plans with roadway and property elevations.
- (2) The Developer shall pay the entire cost of the plan review fees by the Town Engineer for review of the plans as described herein. Specifically, the Developer shall pay the Town costs for the plan review, and review of the following: conceptual plan, preliminary plat, final plat, drainage and street plans.
- (3) The Developer shall pay for all fees for submittal of the plans as described herein as set forth in the Town Fee Schedule on file with the Town.

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- (4) The Developer shall pay the total project costs. Total project costs shall consist of construction costs up to final paving, engineering and legal fees applicable to the project, costs for street signs, stop signs, speed limit signs, informational signs, and streetlights. The Developer shall pay the Town's Engineer costs, Wisconsin Electric Power Company costs and any other utility costs related to the construction of the roadway, as required, which said payments shall be made directly to the appropriate party (with copies verifying payment provided to the Town). Any and all costs incurred by the Town for the roadway construction, including engineering and legal fees, shall be billed by the Town to the Developer.
- (c) The private construction of all Town roads as described herein shall comply with all ordinance requirements and resolution requirements of the Town, including conceptual plan, preliminary plat approval and final plat approval.
- (d) The road shall be constructed as described herein; however, the final paving shall be installed when 70% of available abutting property in the subdivision is developed, or three (3) years, whichever comes first, but in no case until a minimum of 20% of the abutting land is developed, unless otherwise approved by the Town Board. Specifically, in the event a minimum of 20% of the abutting land is not developed, and the three (3) year time frame has lapsed as described above, the Town Board, at the Town Board's discretion, may require final paving of the road in conformity with this ordinance. The Developer shall then be required to construct the road in conformity with all Town ordinances and resolutions as described herein. However, the Roadway Development Agreement may provide for an earlier final paving and curb and gutter than the time frames described above. However, the Roadway Development Agreement shall also include a waiver that the Developer and all owners shall accept full liability for premature failure of the bituminous paving and curb and gutter installation. Premature failure is defined as displacement or break up of bituminous pavement within three (3) years of acceptance of roadway (through base course) by the Town Board.
- (e) If the actual construction costs exceed the financial guarantee to the Town (as described above), the difference shall be made up in either of the following ways:
- (1) On or before thirty (30) days from the date of notice from the Town to the Developer of a shortfall, the Developer shall provide an increase of financial guarantee to cover the increased cost; or
  - (2) In the event the Developer does not provide the increased financial guarantee described above, then the increased cost amount shall be placed on the tax roll as a special assessment, which said assessment shall be split equally against all unsold lots within the affected subdivisions.
- (f) At the time of the signing of the Roadway Development Agreement, the Developer and all owners of all real estate properties in the development shall sign a "Subdivision Improvement Agreement" relating to final paving and waiver of special assessment hearing. A specimen copy of this "Subdivision Improvement Agreement" is on file with the Town Clerk's Office.
- \*The "Subdivision Improvement Agreement" may be modified by resolution of the Town Board of Supervisors, at the discretion of the Town Board. The "Subdivision Improvement Agreement" shall include, among other items, that the actual costs of final paving and/or curb and gutter shall be assessed to abutting property owners by waiver of assessment, and all subdividers of final plats or persons offering a certified survey map for approval shall be required to enter into a "Subdivision Improvement Agreement", relating to final paving and waiver of special assessment.*
- \*Clerk's Note: See attached Exhibit at end of this Chapter.*
- (g) At such time the Developer signs the Roadway Development Agreement, Subdivision Improvement Agreement, and applicable street lighting plan agreement, and at such time the Developer provides satisfactory financial guarantee to the Town as described above, then the Town shall execute the final plat for recording.
- (h) All construction contractors of all roads must be included on the Town list of qualified contractors. The Town shall supply this list to all developers upon request. The list of contractors shall be updated on an annual basis. All contractors who qualify for Wisconsin Department of Transportation work shall automatically be qualified to perform construction of roadways in the Town of Menasha for the type of work they are qualified. Any construction contractor not on the Wisconsin Department of Transportation list can pre-qualify pursuant to forms supplied by the Town of Menasha.

- (i) The Town Engineer shall have the sole discretion to inspect every phase of road and infrastructure construction, including, but not limited to installation of storm sewers, water mains, sanitary sewer, streetlights, aggregate base course, roadway subgrade, binder course and final course of asphalt.
- (j) In the event during the roadway construction process the Town Engineer determines there is inadequate construction, or construction not in conformity with the submitted plans or not in conformity with the Town's standards and general specifications, then the Town Engineer shall provide written notice to the Developer. Upon receipt of the written notice, the Developer shall cease all future construction of the road until such time as the deficiencies are satisfied and corrected as determined by the Town Engineer. The Developer shall have fifteen (15) days to correct all deficiencies as described herein. In the event the fifteen (15) day timeframe is not met, the Town shall have the authority to make arrangements to have the deficiencies corrected, have the roadway properly constructed, and have the financial guarantees applied to the construction costs.
- (k) Upon completion of all Town Engineer inspections as described herein, the Town Engineer shall write a letter recommending acceptance as a Town road to the Town Board.
- (l) Building permits may be issued after execution of all of the above-mentioned agreements, and after financial guarantee has been provided to the Town. However, occupancy permits shall only be issued after acceptance of the roadway by the Town Board.

**15.10(6) PRIVATE ROADS IN CONDOMINIUM DEVELOPMENTS IN R5 ZONING DISTRICTS AND MOBILE HOME DISTRICTS**

**(1) Definitions:** Private Street

A "private street" in the Town of Menasha is defined as a street designed for motor vehicle usage which is completely contained within a subdivision, plat of survey, condominium development, certified survey map, planned unit development, or other similar recorded development which recording document establishes the right of way of the street and that said street has at least one connection to a "public" roadway which is under the ownership, supervision or control of the Town of Menasha, County of Winnebago, or State of Wisconsin.

**(2) When Permitted**

- (a) Private roads shall be permitted in Mobile Home Parks if approved by the Town Board and

Winnebago County. Subject to conditions as set forth in 15.10(5)(c).

- (b) Private roads shall be permitted in condominium developments built in R5 zoning, subject to the following conditions:

**(3) Conditions Required**

- (a) "Private streets" shall not be constructed in the Town of Menasha after June 1, 1985, unless the street is established under and meets all of the terms and conditions of this ordinance. No building permit shall be issued to construct any building which abuts a "private street" unless the street has first been established under the terms and conditions set forth in this ordinance and approved by the Town Board of the Town of Menasha.
- (b) Approval by the Town Board of any private street in the Town of Menasha shall not be considered a waiver of any right or obligation of the Town Board of the Town of Menasha, pursuant to the Wis. State Stats, and specifically the Town of Menasha has reserved all rights to lay out, widen, alter, discontinue or refuse to establish roads/highways/streets, pursuant to WI State Stats, Chapter 60 and Chapter 80.
- (c) A "private street" shall be legally described in the document setting forth development, and shall be permanently marked on the map, plat, survey, or other recording device.
- (d) The legal description and recording devices shall designate in bold print roadways that are approved as "private streets" under this ordinance.
- (e) All streets, whether designated as "private streets" or not, shall be constructed in conformity with all of the specifications of the Town of Menasha Code of Ordinances, and shall further comply with all applicable specifications which establish specifications for public roadways, including the setback lines and other requirements of the ordinances of the Town of Menasha and Winnebago County, and laws of the State of Wisconsin.
- (f) Easements shall be contained in the recording devices reserving and allowing the use of designated private street rights-of-way of public utilities, including sanitary districts, sewer and water, storm water drainage, natural gas, electricity, telephone, and all other utilities having authority to use public rights-of-ways in the Town of Menasha.

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- (g) The recording device used for the establishment of a private street under this ordinance shall contain restrictive covenants which shall run with the land to the benefit of the Town of Menasha and as a part of those restrictive covenants, shall establish an association of the owners and/or residents of the development and shall at all times maintain on file with the Town of Menasha a registered agent for the purpose of notices from the Town of Menasha to the owners'/residents' association where notice is required under this ordinance.
- (h) The recorded restrictive covenants shall allow the Town of Menasha to enter upon the roadway for inspections, for maintenance, for rebuilding, repairs, plowing, or all other necessary work upon said private roadways in the event that the appropriate notice is given under this ordinance to the owners'/residents' association.
- (i) The Town of Menasha shall have the authority to repair, rebuild, plow, or do any other necessary work on said roadways when the Town Board or Town Administrator or the Town Chairman determines that it is in the public interest or in the interest of the health and safety of any resident and/or owner of the property contained in the development to expend funds of the Town of Menasha to do any work upon said roadways in relationship to repairs, maintenance, plowing, or other improvement in order to remove the detriment to public interest or health and safety of residents or owners.
- (j) The covenants shall recite that the Town of Menasha, by its acceptance of this "private roadway" covenants and easement shall not be required to accept as a public roadway the designated rights-of-way in response to a petition by residents pursuant to WI Stats. Acceptance or approval of the private roadway under this ordinance shall not constitute a waiver of the covenants nor require the Town Board to accept said roadways.
- (k) Establishment of "private roadways" under this procedure shall not entitle any owner/resident adjacent to said roadways to any of the following:
  - (1) There shall be no reduction in town tax relative to street maintenance and plowing, and ownership subject to these covenants shall be considered a waiver of any consideration thereof.
  - (2) Ownership shall further constitute a waiver to apply for a reduction in assessments on the grounds that said development is differentiated by bordering upon a private roadway as opposed to a public roadway.
- (3) Shall constitute a waiver of the establishment of any street lighting facilities on said roadways which shall be the responsibility of the persons adjacent to the "private" roadway.
- (l) The Town of Menasha shall reserve under the covenants and hereby reserves by ordinance its authority to enforce all of the laws of the State of Wisconsin, the ordinances of the Town of Menasha, and the ordinances of the County of Winnebago regarding regulation of traffic and motor vehicles, pedestrians, and other usage of said roadways, but this paragraph and condition shall not require the Town of Menasha to patrol said roadways as any requirements for the purposes of regular patrol on said roadway shall be the responsibilities of the owners/residents, and in the event the Town of Menasha for any reason provides such patrol or police services within the said area, special assessments may be levied against said property pursuant to the restrictive covenants established hereunder.
- (m) The establishment of a "private street" shall authorize the owners'/residents' association, acting on behalf of the owners and residents to regulate the traffic on said roadways contained within the private roadway system.
- (n) The private roadway shall at all times be considered the private property belonging to the owners'/residents' association, and the authority of said association shall be equivalent to person's rights in the State of Wisconsin as it relates to any parcel of privately owned property.
- (o) The owners' association, however, shall be required to honor the exemptions set forth in the restrictive covenants for public officials and in addition to the public officials designated above, shall be required to allow public official access for the purpose of assessments, inspections for public health and safety, and all other necessary inspections related to the public interest. The authority to regulate traffic on said roadways does not include the prevention or access of any police officers, fire department officials, firefighters, or any other similar public official from access to said property for the purpose of protection and for health and safety of the residents adjacent to the private roadway.
- (p) The restrictive covenants and conditions required in any section of this section of this ordinance shall be recorded so that they are applicable to all parcels or lots of land having frontage on the "private street" and shall contain language to allow the Town of Menasha to assess on a pro rata-front foot basis any costs incurred in conjunction with said private roadways in the event that the Town of Menasha, at any time in the future, incurs any cost directly connected with

the private roadway. The covenants shall set forth a waiver of statutory special assessment requirements so that the special assessment for any cost may be applied directly to the tax billing as a special assessment.

**(4) Existing Private Streets**

- (a) For the purposes of this ordinance, the following streets are known to be private streets existing within the Town of Menasha, and that this section is for the purpose of designating those streets and also designating the limited application of this ordinance to those streets. The known existing streets are as follows: Alpha Drive, Beta Drive, Camelot Court, Delta Drive, Gail Lane, Gamma Drive, Giesen Street, Green Acres Drive, Gregory Lane, Helen Drive, Kay Kourt, Pages Point, Presher Place, Regency Court, Sigma Drive, Solar Parkway, Tonya Trail, Twin Oaks Lane (West), Welcome Road, Wendy Way, ingress/egress easements within the Harborage at Butte des Morts.
- (b) This ordinance shall not require a retroactive improvement or standardization of these existing streets, with the exception as follows:
  - (1) Any extension of any of the existing private streets must meet all the requirements set forth in this ordinance.
  - (2) That in the event any of the streets is sought to be modified from private street to a public roadway, all of the regulations applicable under this ordinance for the purpose of making such a transition shall be applicable.

**(5) Transition from Private Street to Public Street**

- (a) No private street may be converted to a dedicated public street without following the procedures outlined in this paragraph.
  - (1) Written application shall be made to the Town of Menasha signed by a majority of the property owners within the development. The application shall include any dedication instruments, if necessary.
  - (2) Following receipt of the application, the Town Board shall refer the matter to the Planning Commission for a recommendation. The Town Board shall direct the engineer to make such tests as are necessary to determine whether the private roadway meets the standards required for acceptance of public roadways in the Town of Menasha. The engineer shall further report findings as to the necessity of improvements or upgrading of the street so that it shall meet the acceptable standard for public roadways within the Town.

- (3) All costs of engineering reports and investigations as to the upgrading of the street shall be borne by the applicants.
- (4) Upon receipt of the engineer's recommendation, the Town Board shall either tentatively approve the acceptance with conditions, or disapprove the request. If tentative approval is given, the applicant shall be given written notification of the requirements to bring a road to the standards necessary to be accepted as a dedicated public roadway. Improvement to the road shall be the responsibility of the applicants as well as all costs related thereto, and shall be subject to the inspection of the Town's engineer, if required by the Town Board, at the cost to the applicant.
- (5) Following the necessary improvements, dedications, or other requirements by the Town Board, the Town Board shall, on demonstration that all conditions have been met, accept the road as a dedicated public roadway in the Town of Menasha.

**15.11 SUMP PUMP DISCHARGE**

- (1) All clear water discharges, known as "sump pump discharges," shall be connected directly by means of a closed pipe system to a storm sewer if a storm sewer pipe is located adjacent to the property. Said installation shall be done by a plumbing contractor following plumbing permit issuance, and must be inspected. For the purposes of this section, storm sewer shall mean any underground clear water drainage system located within the Town street right-of-way or drainage/utility easement. Open curb and gutter discharge shall not be used to discharge water into the storm sewer and system.
- (2) All such connections shall be made before occupancy of the buildings, if the storm sewer is in place at the start of construction of the building. Buildings constructed prior to April 1, 1985, adjacent to an existing storm sewer must be connected to said storm sewer no later than April 1, 1986.
- (3) In the event the storm sewer is installed following construction of the building, the connection shall be made within six (6) months of the storm sewer installation. This requirement may be waived by the Town Board of Supervisors upon formal request of the property owner.
- (4) Connection shall not be required if, previous to the installation of the storm sewer, a rear or side yard open drainage easement is in use at the property in question. This section does not permit discharge into open curb and gutter drainage.



TOWN OF MENASHA CODE

- (5) All sump pump connections shall be installed to the property line, by the property owner in question, at the property owner's expense.
- (6) The installation of the storm sewer in an unimproved street shall be provided for and paid for by the developer constructing the street.
- (7) The Town of Menasha shall assess full or partial cost, less State and Federal funding, of storm sewer installations in improved streets to the abutting property owners following a public hearing.
- (8) The installation of laterals from the storm sewer to the property line in an unimproved street shall be paid for by the developer constructing the street. The Town of Menasha shall assess full or partial cost, less State and Federal funding, of such installations in an improved street to the abutting property owners following a Public Hearing.
- (9) Installation of a storm sewer on an existing improved street or in an easement may be ordered by a majority vote of the Town of Menasha Board of Supervisors members (three votes affirmative).
- (10) Any and all existing provisions of the Town of Menasha Municipal Code in conflict with the provisions of this ordinance amendment are hereby repealed, and this amendment shall take effect upon passage and publication.
- (11) shall designate an Engineering Consultant The Town of Menasha Board of Supervisors for every project.
- (12) The Town shall issue permits for all lateral installations, and standards shall be created for each project.
- (13) All storm sewer connections shall conform to the provisions of the General Specifications, of the Town of Menasha.

**15.12 STREET TREES WITHIN ROAD RIGHT-OF-WAY**

- (1) This ordinance shall regulate the placement of trees within the road right-of-way within the Town of Menasha. All provisions of Town Ordinance Section 8.04, are incorporated herein at length by reference as if set forth fully herein. *[Adopted 7/12/93]*
- (2) Town Ordinance Section 15.035, Ditch Maintenance, is incorporated herein at length by reference as if set forth herein.
- (3) "Street trees" are defined as any and all trees, shrubs, bushes and all other woody vegetation growing or planted between property lines on either side of all streets, avenues, boulevards, alleys or other public right-of-ways within the Town of Menasha.

- (4) No street trees shall exist, be planted, or be placed upon any portion of the Town of Menasha Town road right-of-way in any development which does not have storm sewer. In addition, no street tree shall exist, be planted, or be placed within any ditch in the Town of Menasha.

- (5) No street trees shall exist, be planted or be placed closer than four (4) feet from any curb, street pavement edge and/or sidewalk of any Town road within the Town of Menasha in any development which has storm sewer. In storm sewer developments only, street trees shall be allowed to be planted, placed or exist within any other portion of the street right-of-way, except for the four (4) feet area described above; however, the following conditions shall apply to all such trees:

- (a) The following street trees shall not be planted:

Catalpa, Chinese Elm, White Poplar, Lombardy Poplar, Ginkgobiloba, or any fruit tree.

- (b) The following street trees shall be allowed to be planted, placed or exist within the Town right-of-way:

**LOCUST**

Continental Honey Locust, Skyline Honey Locust, Shademaster Honey Locust, Imperial Honey Locust, Halka Locust

**MAPLE**

Columnar Norway or Erectum Maple, Emerald Queen Maple, Cleveland Maple, Red Sunset Maple, Bowhall Maple, Sugar Maple, Crimson King Maple, Schwedler Maple, Jade Glen Maple, Summershade Maple, Superform Maple, Royal Red Maple, Green Mountain Maple, Parkway Maple

**ASH**

Hackberry, Autumn Purple Ash, Summit Ash, Marshall Seedless Ash, Patmore Ash, Rosehill Ash, Bergeson Ash

**LINDEN**

Redmond Linden, Littleleaf Linden, Greenspire Linden, Sentry Linden, June Bride Linden, Glenleven Linden

**OAK**

Pin Oak, Red Oak

**NUT**

All Nut Trees

TOWN OF MENASHA CODE

- (6) The owners of all street trees within the Town of Menasha right-of-way as described herein, shall be solely responsible for the trimming and maintenance of the street trees within the right-of-way at the sole cost of the owner. Furthermore, the owners of all street trees within Town right-of-way shall be liable for any and all damage, personal injury, or injuries resulting to property or person caused in any fashion by the street trees within the Town of Menasha right-of-way, and the property owner of the street trees shall hold harmless and indemnify the Town of Menasha from any and all liability whatsoever.
- (7) Spacing of all street trees within Town right-of-ways shall be as follows:

All trees shall be spaced a minimum of forty (40) feet from one another.
- (8) No street tree shall be planted, placed or exist within any portion of the Town right-of-way until such time that the property owner has obtained an approved Street Tree Permit. Applications for Street Tree Permits shall be made to the Town Clerk. The application shall be reviewed and approved by the Town Street Superintendent prior to the issuance of a Street Tree Permit. The Street Tree Permit shall be issued by the Street Superintendent.
- (9) No street tree shall be planted closer than thirty-five (35) feet from any street corner measured from the point of the nearest intersecting curbs, curb lines or pavement edges. No street tree shall be planted closer than ten (10) feet from any fire plug. No street tree shall be planted within ten (10) lateral feet of any overhead utility wire or within five (5) lateral feet of any underground water line, sewer line, transmission line or other utility.
- (10) It shall be unlawful to attach any wire or rope to any street tree within the Town right-of-way without the permission of the Town Street Superintendent. Furthermore, it shall be unlawful to attach any sign, advertisement or notice to any street tree on any Town right-of-way.
- (11) The Town shall have the right to plant, prune, maintain or remove any street trees located within the Town right-of-way at the Town's sole discretion for the general protection of the Town residents and to maintain the safety, welfare, and best interests of the Town of Menasha residents. The Town may remove or cause or order to be removed any street tree which is in an unsafe condition or which by reason of its nature is potentially dangerous and injurious to sewers, electric power lines, gas lines, water lines or other public improvements, or is infected with any disease or insects, and shall order the property owner to remove the unsafe condition. In the event the property owner fails or refuses to remove the unsafe condition within thirty (30) days of notice of the Town of Menasha, then the Town shall have the right to remove the unsafe condition at the sole cost and

expense of the owner, and in the event the owner refuses or fails to pay the cost or expense, the Town may attach as a special assessment the cost or expense to the owner's real estate property as a special assessment.

- (12) All stumps of street trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.
- (13) Any person, firm, corporation, partnership or any other entity violating any provision of this ordinance shall be fined an amount set forth in Appendix C Fines and Penalties, reference this code section, for each offense committed on each day, which each said day shall be a separate violation, plus costs of prosecution, and in default of payment of such forfeiture and cost, shall be imprisoned in the County jail until said forfeiture and cost of prosecution are paid but not to exceed 30 days. [Amended 11/28/05]

**Exhibit to 15.10(7)(f), 15.10(8)(f)**

**TOWN OF MENASHA  
SUBDIVISION IMPROVEMENT AGREEMENT  
WAIVER OF SPECIAL ASSESSMENT  
PROCEEDINGS**

This Agreement entered into effective the day of \_\_\_\_\_, 20\_\_ by and between the Town of Menasha, a Wisconsin Municipal Corporation, located in Winnebago County, Wisconsin, hereinafter called the "Town", and, \_\_\_\_\_, the owner of real estate being subdivided by Preliminary and Final Subdivision Plat (or certified survey map) within the Town, hereinafter called the "Owner".

**15.13 HEAVY TRAFFIC ROUTES**

- (1) **Definitions.** The following definitions shall apply to this section:

**Heavy Traffic:** All vehicles not operating completely on pneumatic tires and all vehicles or combination of vehicles, other than motor buses, designed or used for transporting property of any nature and having a cross weight of more than 6,000 pounds.

**Street or Highway:** Any town road located in the Town of Menasha.

**Highway:** Any town road located in the Town of Menasha; highway also means all public ways and thoroughfares, including alleys, which are town roads located in the Town of Menasha.

(2) **Statutory Limits on Establishing Heavy Traffic Routes.** Pursuant to Section 349.17(1), WI Stats., the Town of Menasha may not place any heavy traffic route restrictions on streets or highways over which are routed state truck highways, and may not prohibit heavy traffic from using a street or highway for the purpose of obtaining orders for supplies or moving or delivering supplies or commodities to or from any place of business or residence which has an entrance on such street or highway.

(3) All streets or highways which are designated as heavy traffic routes shall have appropriate signs giving notice the street or highway is a heavy traffic route.

(4) **Heavy Traffic Routes.** All vehicles which are defined as "heavy traffic" in this ordinance shall be allowed to use the following streets and highways which said routes shall be designated as "Heavy Traffic Routes". All vehicles which are defined as "heavy traffic" are prohibited from using any streets or highways in the Town of Menasha which are not specifically designated as "Heavy Traffic Routes" as described below. The following streets and highways are hereby designated as "Heavy Traffic Routes" which shall allow heavy traffic use:

Airport Road, between Appleton Road (STH 47) and Racine Road (CTH P)

American Drive, from W. Prospect Avenue (CTH BB) to Copperhead Drive

West American Drive, from Copperhead Drive to CTH "CB"

Calumet Street, between S. Oneida Street and Memorial Drive (STH 47)

Ehlers Road from Green Bay Road to North Lake Street

Green Bay Road, from North Street (CTH O) to American Drive

Winchester Road, from North Street (CTH O) to American Drive

North Lake Street from Town/City line to Ehlers Road. *[Revised 2/23/98]*

(5) **Penalty.** Any person adjudged in violation of any provision of this ordinance shall forfeit not less than an amount set forth in Appendix C Fines and Penalties, reference this code section, for each violation per day, plus all costs of prosecution. Each violation shall constitute a separate offense. In addition, in default of the forfeiture and cost of prosecution, or either of them, such convicted person shall be committed to and confined within the County Jail of Winnebago County, Wisconsin, until such fine and cost of prosecution are paid, but not to exceed 60 days. *[Amended 11/28/05]*

**15.14 ACCESS RESTRICTION**

(1) **Definitions.** The following definitions shall apply to this section:

**Access:** Means driveways, parking, lots or other connections to public roads from a lot or parcel that can be used by motorized vehicles.

**Access Restriction:** Prohibiting driveways, parking lots or other connections to public roads from a lot or parcel that can be used for access by motorized vehicles.

(2) **Lots and Parcels with Restricted Access.**

(a) Lots 1 - 8 of Block 2, Little Butte Plat Number 2, shall be restricted from access to North Lake Street (CTH "PP").

(b) All lots adjacent to American Drive from Mill Pond Drive west to the West Side Arterial (CTH "CB").

(c) Lots 97 – 99 of Meadow Heights Plat shall be restricted from access to Hillington Drive.

(d) Lot 4 of Certified Survey Map 4648 & Lot 1 of Certified Survey Map 5273 shall be restricted from access to Kuehn Court.

**Exhibit to Section 15.10(4)**

**STREET LIGHTING POLICY**

Adopted May 24, 1982 / Amended February 24, 1992

**PURPOSE:** The intent of this policy is to insure that the current, and succeeding, members of the Town of Menasha Planning Commission and Town Board of Supervisors are guided by a uniform set of standards, which shall insure public safety in the most cost effective manner.

**SCOPE:** This policy shall encompass all areas within the Town of Menasha at the time of adoption of the policy, and shall be applicable to the installation, removal, or relocation of streetlights.

**STANDARDS:**

- (1) Streetlights affected by this policy shall have as their only purpose, to adequately illuminate the public streets of the Town. The owners of private driveways and streets shall be responsible for their own lighting.
- (2) The placement of streetlights shall, to the greatest extent practicable, be governed by the following classification system:

- Class 0 - Private Streets/Driveways Intersecting Public Right Of Way.
- Class 1 - Local Street Used By Abutting Owners.
- Class 2 - Through Street, Mainly For Local Use.
- Class 3 - Through Streets With Heavy Outside Traffic.
- Class 4 - Frontage Roads.
- Class 5 - County Highways.
- Class 6 - State and Federal Highways.

Example: A Class 1 street intersecting a Class 3 street would be assigned the number 31. Similarly, a Class 2 intersecting a Class 3 would be numbered 32. All other things being equal, the 32 would take precedence.

If more than one request is received and the numeric classification is identical, then all of the following shall be considered:

- A. Age of subdivision (from date of final approval).
- B. Density of development within 1/4 mile.
- C. Proximity to high traffic generating uses such as schools, parks, businesses, etc.
- D. Occurrence of accidents.

For the purpose of this section, on any street having a curve of at least 45°, the curve shall be considered an intersection for lighting purposes provided that proper signing has been previously instituted.

- (3) Cul-de-sacs or dead end streets shall have the lowest priority for lighting unless an exceptionally hazardous situation exists. It is the intent of this subsection to make note of the fact that these streets are normally designed to discourage through traffic, and proper signing should be instituted prior to lighting.
- (4) For all new developments, all streetlights shall be installed at the time the street is constructed. Furthermore, streetlights shall be installed in accordance with the Town Street Lighting Policy and in accordance with all applicable Town ordinances.

TOWN OF MENASHA CODE

- (5) The placement of streetlights in mid-block shall normally be discouraged except in business areas where such placement may be necessary due to high traffic counts. The mid-block placement of streetlights on streets over one block in length shall have the lowest priority for lighting.
- (6) Decorative streetlights, including decorative poles and/or fixtures, shall be allowed in the Town of Menasha, upon Town Board approval, all in accordance with Town ordinances as set forth in the Town of Menasha Municipal Code. Furthermore, decorative streetlights within a development in the Town of Menasha shall only occur in the event there is a Street Light Agreement Hold Harmless and Indemnification Agreement signed by the Town and Owners within the development. This Street Light Agreement Hold Harmless and Indemnification Agreement shall provide, in part, that the owners of all lots in the development shall be liable and pay the difference between decorative streetlight electrical meter charges and standard non-decorative streetlight electrical meter charges, on a pro rata by lot basis. Furthermore, this Street Light Agreement referenced herein shall provide Owners shall be liable and shall pay for the cost of bulbs, repairs, maintenance and all replacement costs for decorative streetlights, which said costs exceed the costs of standard non-decorative streetlights. All other provisions of the Street Light Agreement shall be as set forth and required by the Town Board.

**PROCEDURE:** The procedure concerning all streetlights within the Town of Menasha shall be as follows:

- (1) All requests for all streetlights within the Town of Menasha shall be made in writing and shall be provided to the Town Clerk and Town Planner.
- (2) The Town Planner shall review all street lighting requests and make a recommendation to the Town Board.
- (3) The Town Administrator shall place the street lighting request on the next Town Board agenda.
- (4) The Town Board shall review the streetlight request, taking into account all budgetary considerations and either approve or disapprove the street lighting request.
- (5) Upon approval of the street light request by the Town Board, then the Town Administrator shall request the applicable contracts from Wisconsin Electric Power Company for consideration of approval by the Town Chairman.

Exhibit to Section 15.10(7)(f) and 15.10(8)(t)

**TOWN OF MENASHA  
SUBDIVISION IMPROVEMENT AGREEMENT  
WAIVER OF SPECIAL ASSESSMENT PROCEEDINGS**

This Agreement entered into effective the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the Town of Menasha, a Wisconsin Municipal Corporation, located in Winnebago County, Wisconsin, hereinafter called the "Town" and \_\_\_\_\_, the owner of real estate being subdivided by Preliminary and Final Subdivision Plat (or Certified Survey Map) within the Town, hereinafter called the "Owner".

- 1. The legal description of the subdivision Final Plat, or legal description of the Certified Survey Map properties, affected by this Agreement, are as set forth as Exhibit A attached.
- 2. Said Owner, for himself/herself, or for itself, for heirs, successors and assigns, agrees with the Town that all real estate set forth at Exhibit A attached, shall be assessed by the Town, for final street paving costs.
- 3. Town and Owner agree that this Document, when executed, and when recorded with the Register of Deeds, for Winnebago County, shall constitute a waiver, by the owner, by the heirs, successors and assigns of the Owner, said waiver authorizing the Town to proceed and accomplish all final street paving, and to assess the costs to abutting property owners (see Exhibit A); and, there shall be no requirement for a Preliminary Resolution, Notice of Public Hearing, Public Hearing, or Final Resolution. All such special assessments, by waiver, are deemed correct, and property imposed pursuant to Wisconsin's Law.
- 4. The Town shall collect said special assessments by cash or installments payments as then determined by the Town.

TOWN OF MENASHA:

OWNER:

By: \_\_\_\_\_  
\_\_\_\_\_, Town Chairman

By: \_\_\_\_\_  
\_\_\_\_\_, President

By: \_\_\_\_\_  
\_\_\_\_\_, Town Clerk

By: \_\_\_\_\_  
\_\_\_\_\_, Secretary

STATE OF WISCONSIN )  
  ) ss.  
WINNEBAGO COUNTY)

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

By: \_\_\_\_\_  
\_\_\_\_\_, Notary Public

My Commission Expires: \_\_\_\_\_

This instrument drafted by:  
Town of Menasha  
2000 Municipal Drive  
Neenah, WI 54956-5665

**Exhibit to Section 15.10(7)(f) and 15.10(8)(f)**

**EXHIBIT A  
TOWN OF MENASHA  
SUBDIVISION IMPROVEMENT AGREEMENT  
WAIVER OF SPECIAL ASSESSMENTS PROCEEDINGS**

(Real Estate Description of Final Plat or  
Certified Survey Map, for recording purposes)

**Exhibit to Section 15.10(8)(h)**

**PRE-QUALIFICATION STATEMENT**

Submitted To: \_\_\_\_\_ Date Filed: \_\_\_\_\_

Project: \_\_\_\_\_ Project No. \_\_\_\_\_

NOTE: If the municipality, board, public body or officer is not satisfied with the sufficiency of the answers to the questionnaire and financial statement, the bid may be rejected or disregarded or additional information may be required (Section 66.29(4), Stats.).

Complete all of the following items; if not possible, print N/A.

1. Business Name: \_\_\_\_\_

Address: \_\_\_\_\_  
Street/P.O. Box City/State/Zip Code

Telephone Number: (\_\_\_\_) \_\_\_\_\_ Contact Person: \_\_\_\_\_

2. Type of Organization (check one): \_\_\_\_\_ Corporation \_\_\_\_\_ Partnership  
\_\_\_\_\_ Individual \_\_\_\_\_ Joint Venture  
\_\_\_\_\_ Other \_\_\_\_\_ \*

\*(If "Other", attach brief statement describing organization.)

3. When Organized? \_\_\_\_\_

4. If a Corporation, when and where incorporated? \_\_\_\_\_

5. Attach a statement listing the corporate officers, partners or other principal members of your organization. Detail the background and experience of the principal members of your personnel, including the officers.

6. How many years has your organization been engaged in the contracting business under the present firm name? \_\_\_\_\_

7. General character of work performed by your firm: \_\_\_\_\_

8. Attach a list of contracts on hand, for both public and private construction, include for each contract the class of work, the contract amount, the percent completed, the estimated completion date and the name and address of the owner or contracting officer.

9. Has your organization ever defaulted on a contract or failed to complete any work awarded to it? \_\_\_\_\_  
If YES, attach a statement explaining where and why.



Pre-Qualification Statement (continued)

Page 2

- 10. Has any officer or partner of your organization been an officer or partner of some other organization within the past five (5) years that failed to complete a construction contract during that period? If YES, attach a statement indicating the name of the individual, other organization and reason thereof.
- 11. Has any officer or partner of your organization within the past five (5) years failed to complete a construction contract handled in their own name? If YES, attach a statement indicating the name of the individual, name of owner and reason thereof.
- 12. Has your organization, any of its owners, a subsidiary or corporate parent, or any officer or director thereof, been convicted in the last three (3) years of violating Section 133.03, Wis. State Stats. (Unlawful Contracts: Conspiracies)? \_\_\_\_\_ If YES, indicate:  
 Date: \_\_\_\_\_  
 Claimant: \_\_\_\_\_  
 Claimant's Mailing Address: \_\_\_\_\_  
 Attach a statement reciting the particulars of such violation(s).
- 13. Attach a list of the major projects your organization has completed within the past three (3) years, including for each project the class of work, the contract amount, the completion date, and the name and address of the owner or contracting officer.
- 14. Attach a list of the major equipment which is available to your organization for the proposed work.
- 15. Attach a statement of your organization's experience in the construction of work similar in nature and importance to this project.
- 16. Credit Available: \_\_\_\_\_  
 Attach a letter from your bank(s) or other financial institute(s) advising line of credit up for your organization.
- 17. Name of banding company and name, address and telephone number of agent.
- 18. Financial Statement:  
 Condition at close of business on \_\_\_\_\_, 20 \_\_\_\_\_

Cash:	\$ _____
Accounts Receivable:	\$ _____
Real Estate Equity:	\$ _____
Materials in Stock:	\$ _____
Equipment, Book Value:	\$ _____
Furniture & Fixtures, Book Value:	\$ _____
Other Assets:	\$ _____
 Total Assets	 \$ _____

Pre-Qualification Statement (continued)  
Page 3

Liabilities

Accounts, Notes & Interest Payable: \$ \_\_\_\_\_

Other Liabilities: \$ \_\_\_\_\_

Total Liabilities: \$ \_\_\_\_\_

19. Additional information may be submitted if desired.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

Name of Organization: \_\_\_\_\_

By: \_\_\_\_\_  
(Signature)

Name: \_\_\_\_\_  
(Please Print or Type)

Title: \_\_\_\_\_

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