

CHAPTER 4
TRAVELWAY

4.01	Definitions
4.02	Permits
4.03	Planning and Zoning Committee Approval
4.10	Penalty
4.11	Severability
4.12	Conflicting Ordinances

4.01 DEFINITIONS.

MOTOR VEHICLE. Any vehicle propelled by an internal combustion engine and includes any automobile, truck, bus, motorcycle, snowmobile or vehicle which travels on or off roads or highways.

MOTOR VEHICLE TRAVELWAY. Any surface, at least 4' wide, used by a motor vehicle for ingress or egress to, from or across land or water, whether permanent or temporary, and whether intended for public or private use. This definition includes, but is not limited to, the following: paths, trails, driveways, aprons, approaches, easement roads, roads, bridges, boardwalks and parking lots or areas. For purposes of this definition, a highway, road or street constructed and maintained by any Town, county, State or federal government entity is not included in this definition.

4.02 PERMITS. (1) **PERMIT REQUIRED.** No motor vehicle travelway shall be constructed in the Town without first obtaining a permit from the Town. For existing surfaces which would fit the definition of motor vehicle travelway found in this chapter and which predate the effective date of this chapter, no addition to or alteration of any such surface, excluding maintenance, shall be undertaken without first obtaining a permit from the Town. A property owner may maintain an existing motor vehicle travelway by grading or subtracting fill so long as the maintenance does not result in a change of more than 10% of the original dimensions as they are in the existing motor vehicle travelway. Anyone seeking a permit shall submit an application to the Town Zoning Deputy or any other person designated by the Town Planning and Zoning Committee or the Town Board for issuance of such permits. Upon filing, the application shall contain all of the necessary information described elsewhere in this chapter and any other information as may be required under rules adopted from time to time by the Town Planning and Zoning Committee. Applications shall be accompanied by the necessary fee, the amount of which shall be set by the Town Board. No permit shall be issued based on an incomplete application or an application that is not accompanied by the total necessary fee. The completed application shall be forwarded by the person responsible for issuing the permit to the Town Zoning and Planning Committee for their review.

(2) **REVOCAION OF PERMIT.** Any permit issued by the Town to construct a motor vehicle travelway may be revoked where it is found that construction is not in conformity with the original site plan or where it is found that the permit was obtained on the basis of false or fraudulent information presented in the application process. The Town shall provide notice of the permit's revocation, either in person to the permit holder or by certified mail sent to the applicant's address found on the original permit application.

TRAVELWAY 4.02(3)

(3) **AUTOMATIC APPROVAL.** A completed application, accompanied by the necessary fee and in compliance with any other requirements set by the Town, shall be automatically approved if more than 21 days pass from the day the application is submitted to the Town and the Town has failed to take any action to consider, approve or deny the application.

4.03 **PLANNING AND ZONING COMMITTEE APPROVAL.** (1) **REQUIRED.** No motor vehicle travelway shall be constructed in the Town without first obtaining the approval of the Town Planning and Zoning Committee.

(2) **SITE PLANS.** (a) **Required.** All requests for approval to construct a motor vehicle travelway shall be accompanied by a site plan.

(b) **Site Plan Requirements.** Site plans shall include a drawing or diagram of the proposed motor vehicle travelway. The drawing or diagram shall include the location of the motor vehicle travelway on the land upon which it is sought to be constructed; its relation to adjacent or adjoining properties; relation to existing or proposed structures; its dimensions, including length and width; the location of any intersections with existing highways, roads, streets or other motor vehicle travelways; and a description of the materials from which it will be constructed. Site plans shall also include a description of any geographic features which will be disturbed or affected by the construction of the motor vehicle travelway. Geographic features include, but are not limited to, a change in any grade on the land of more than 10%; the cutting, killing or removal of any trees greater than 6" in diameter measured at a distance on the tree trunk 4' above the ground at the base of the tree, including the location of such trees on the site plan; any protected, rare, threatened or endangered plants, or wildlife or wildlife habitat; any stream or river bed, navigable waterway or wetland, as defined in §NR 103, Wis. Adm. Code, and regardless of how classified by any zoning map or inventory. Upon initial review of any request for approval to construct a motor vehicle travelway, the Planning and Zoning Committee may require the applicant to submit any further and additional information which the Committee deems relevant or necessary to their decision to grant or deny the approval.

(3) **REVIEW CRITERIA.** The Town Planning and Zoning Committee shall base their decision to approve or deny the request for a permit on the following criteria:

(a) The completeness of the application, including whether the site plan contains all of the necessary information, and whether the application was accompanied by the proper fee.

(b) The impact that the proposed motor vehicle travelway will have on existing State, county or Town highways or roads, or existing surfaces that fit the definition of a

motor vehicle travelway found elsewhere in this chapter. Factors the Committee may consider

TRAVELWAY 4.03(3)(c)

include, but are not limited to, existing traffic patterns and use, maintenance, traffic safety and impact on emergency service provided by fire, ambulance or law enforcement departments.

(c) The impact that the proposed motor vehicle travelway will have on the environment. Factors the Committee may consider include, but are not limited to, destruction or significant change of any existing geographic features, whether construction will result in the cutting, killing or removal of any trees greater than 6" in diameter as measured at a distance on the tree trunk 4' above the ground at the base of the tree, and the number of such trees that will be affected; the impact construction will have on any protected, rare, threatened or endangered plants, or wildlife or wildlife habitat; and impact to any stream or river bed, navigable waterway or wetland, as that term is defined in §NR 103, Wis. Adm. Code.

(d) Public input, limited to whether construction of the proposed motor vehicle travelway will have a significant impact on adjacent property owners, or in the case of an easement, whether the owner of the land which the easement traverses objects to the construction. In the case of an easement, the owner of the property on whose property the motor vehicle travelway is sought to be constructed must be given notice of the application by the applicant by certified mail, and proof of receipt of the notice must be filed with the application at the time of its submission for approval.

(e) Whether denial of the permit will substantially affect the applicant's ability to use or gain access to property owned by the applicant. In determining whether denial of the permit will substantially affect the applicant's ability to use or gain access to property owned by the applicant, factors the Committee may consider include, but are not limited to, the availability of reasonable alternatives and their cost and whether a change in the location or dimensions of the motor vehicle travelway will be more consistent with satisfying the criteria the Committee is to use in approving or denying the permit, described elsewhere in this chapter.

(f) Any other factors which the Committee deems relevant to insuring and protecting the public's health, safety and welfare.

(g) In applying the above factors, the Committee's emphasis shall be on the first 50' of the motor vehicle travelway as measured from the travelway's intersection with any existing federal, State, county or Town highways or roads. However, the Committee is not limited to applying the criteria to that area, and in appropriate cases where there may be a substantial impact on the public's health, safety or welfare, may consider the

impact of the entire travelway.

TRAVELWAY 4.03(4)

(4) **APPROVAL.** Approval or denial of the permit shall be by majority vote of the Town Planning and Zoning Committee. In the case of a tie, the Town Chairman shall cast the tie breaking vote.

(5) **APPEAL.** Anyone aggrieved by a decision of the Town Planning and Zoning Committee to grant or deny a permit under this chapter may appeal to the Board of Appeals, which shall consist of the 3 remaining members of the Town Board who do not sit on the Town Planning and Zoning Committee, by filing a notice of appeal, along with a filing fee in the amount of \$250, with the Town Clerk within 30 days of the decision of the Town Planning and Zoning Committee. The Board of Appeals shall hear the appeal at its next regularly scheduled meeting of the Town Board following the filing of the notice of appeal. Decisions of the Town Planning and Zoning Committee to grant or deny a permit shall be reversed only upon a vote in favor of reversal by 2 of the 3 members of the Board of Appeals. For purposes of appeal, any person who applies for a permit and is denied the permit, or in the case of an easement, the owner of the property which the easement exists on, who is aggrieved by a decision of the Town Planning and Zoning Committee to grant or deny a permit, shall have standing to pursue an appeal to the Board of Appeals.

4.10 **PENALTY.** (1) Anyone, including those doing work for others, who commences or undertakes any work on a motor vehicle travelway without first obtaining the necessary permit, in addition to any other penalty under this chapter, shall be subject to a forfeiture equal to 3 times the amount of the permit fee.

(2) Anyone, including those doing work for others, who violates any provision of this chapter shall be subject to a forfeiture of not less than \$100 nor more than \$1,000 for each violation, plus costs of prosecution. Each day a violation exists shall constitute a separate and distinct violation of this chapter and, as such, forfeitures shall apply accordingly.

(3) In addition to any forfeiture imposed on anyone found to have violated this chapter, anyone who constructs a motor vehicle travelway in violation of any of the terms of this chapter may be required to remove the motor vehicle travelway and restore any affected property to its former condition.

(4) The Planning and Zoning Committee shall refer violations of this chapter to a Town designated attorney, who shall prosecute the violations.

4.11 SEVERABILITY. The provisions of this chapter shall be deemed severable and it is expressly declared that the Town Board would have passed the other provisions of this chapter irrespective of whether or not one or more provisions may be declared invalid. If any provision of this chapter is invalid or unconstitutional or if the application of this chapter to any person or circumstance is invalid or unconstitutional, such invalidity or unconstitutionality

TRAVELWAY 4.12

shall not affect the other provisions or applications of this chapter which can be given effect without the invalid or unconstitutional provisions or applications.

4.12 CONFLICTING ORDINANCES. Ordinances which conflict with this chapter are hereby repealed.