
SUBCHAPTER 1: TOWN HIGHWAYS

CHAPTER 9: PUBLIC WORKS**SUBCHAPTER 1: TOWN HIGHWAYS****9.100 TITLE**

This Subchapter shall be known as the “Town of Lyndon Highway Ordinance” or the “Highway Ordinance,” except as referred to herein, where it shall be known as “this Subchapter.”

9.101 AUTHORITY

This Subchapter is enacted pursuant to the general authority granted by §60.22, Wis. Stats., and Chapter 82, Wis. Stats.

9.102 PURPOSE

For the safety of the general public, the Town shall determine the location, size, construction, maintenance, and number of Town roads, through the administration of this Section and any other applicable ordinances. It is the Town's intent to provide safe roads throughout the Town, so that property may be developed to its highest and best use and so that vehicular travel and access is not deficient or dangerous to the general public.

9.103 DEFINITIONS

The following definitions shall be used in interpreting this subchapter:

Ditch: The area typically found on each side of the traveled portion of a Highway, located between the edge of the traveled portion and the outer-most edge of the right-of-way.

Highway: Another term for Town Highway.

Road: Another term for Town Highway.

Town Highway: A public highway owned and/or controlled by the Town, including all recorded and unrecorded highways, and including the entire highway right-of-way consisting of the traveled portion of the highway and the ditches. This term does not include federal, state or county highways, or private roads.

Town Road: Another term for Town Highway.

Town Roadway: Another term for Town Highway.

9.104 RESERVED FOR FUTURE USE**9.105 ROAD DAMAGE**

It shall be unlawful to commit damage to any Town road.

9.106 ROAD CLEANING AND MAINTENANCE

(1) **RAKING LEAVES ETC. INTO ROAD:** It shall be unlawful to rake, blow, push, deposit or cause to be deposited onto any Town Road, leaves, brush, grass clippings, or other vegetative material taken or removed from property privately owned or occupied.

(2) **PUSHING SNOW INTO ROAD:** It shall be unlawful to push, plow, shovel, deposit, or cause to be deposited onto any Town Road, snow or ice taken or removed from property privately owned or occupied.

(3) **DUMPING GARBAGE ON ROAD:** It shall be unlawful to deposit, dump, sort, scatter, or leave any rubbish, stone, wire, earth, ashes, cinders, sawdust, hay, glass, manure, filth,

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paper, construction waste, garbage, or other offensive or noxious material onto any Town Road.

- (4) **BURNING IN ROAD:** It shall be unlawful to burn leaves, wood, rubbish or any other material on a Town Road.
- (5) **DISCHARGING WATER ONTO ROADS:** No driveway, drainage way, downspout, gutter, trough, or other artificial structure shall be designed, constructed, or maintained to allow water flowing therein to be cast upon or to flow over the traveled portion of a Town Road. Nothing herein shall prohibit the flow of surface water, from existing structures, to be cast into or to flow into the ditches adjacent to Town Roads.
- (6) **ROAD DITCHES:** It shall be unlawful to obstruct, or cause to be obstructed, the free passage of water in any Town Road ditch, culvert, swale, or drain. It shall also be unlawful to place or cause to be placed any rubbish, dirt, sand, gravel, brush, leaves, grass clippings, or any other matter or thing so that the same is carried by the elements into any Town Road ditch, culvert, swale or drain.
- (7) **GRASS CUTTING:** Grass cut on the Town Road shall not be discharged onto the traveled portion of the Road.
- (8) **PLANTINGS:** No trees, shrubs, plantings, landscaping, or objects of art shall be planted or placed in the Town Road without written permission from the Town.

9.107 WEIGHT LIMITATIONS

- (1) **STATEMENT OF PURPOSE:** In the interest of public safety on Town Roads, the roads and streets, or portions thereof, of the Town of Lyndon are hereby declared to have special weight limitations as set forth herein, because in the absence of such special limitations, there is a likelihood that they would be seriously damaged or destroyed.
- (2) **STATUTORY AUTHORITY:** Such limitations are adopted pursuant to §348.17, §349.16, and §349.17 Wis. Stats., which is hereby adopted by reference and made a part of this ordinance.
- (3) **WEIGHT LIMITATIONS:** The Town Chairperson, or designee, may impose special seasonal limitations on any Road or portion thereof which, in the sole discretion of the Superintendent, could be damaged or destroyed in the absence of such special limitations, because of weakness of the roadbed, climatic conditions, or any other special or temporary condition.
- (4) **NOTICES/SIGNS:** Appropriate signs, informing the public of the weight limitations, shall be erected on the applicable Town Roads, and a map showing the location of the signs shall be on file with the Town Clerk.
- (5) **EFFECT OF LIMITATIONS:** When such limitations are in effect, no person shall operate a motor vehicle weighing in excess of the posted maximum limit.
- (6) **EXCEPTIONS:** The limitations imposed under this section shall not apply to the following:
 - (a) Town vehicles, or vehicles contracted by the Town, engaged in the removal of snow or ice, sanding, salting, or other Town business.
 - (b) Fire, ambulance, and EMS vehicles.
 - (c) Vehicles serving agricultural activities located in the Town.
 - (d) Fuel trucks delivering fuel to Town residents.
 - (e) School buses serving Town residents.
 - (f) Garbage/recycling trucks contracted by the Town.
 - (g) All other users who receive a permit as provided in (7) below.

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- (7) **PERMIT TO ALLOW OVERWEIGHT LOADS:** The Town Chairperson, or designee, is authorized to issue a written permit granting the privilege to exceed the weight limits as specified, pursuant to the following procedure.
- (a) **APPLICATION:** An application for a permit shall be filed with the Town Clerk, and shall include, for the purpose of enforcement of this Ordinance, the following information:
1. Name, address and telephone number of the applicant(s) who intends to exceed the weight limits.
 2. The license number and description of the truck(s) to be used.
 3. A general description of the work to be performed, including an explanation of why the work can not be performed at a later date when the road weight limits are lifted.
 4. The period of time during which the work will be done.
 5. A map showing the roads to be used and the routes to be taken.
 6. Any other information which the Chairman deems necessary to the proper review and understanding of the application.
- (b) **FEES:** The fee to be charged for each application shall be established by separate resolution of the Town Board.
- (c) **INSURANCE REQUIRED:** A permit shall be issued only upon the condition that the applicant provides satisfactory evidence that the applicant has in force, and will maintain during the time the permit is in effect, public liability insurance of not less than \$500,000 per one (1) person and per one (1) accident, and property damage insurance of not less than \$500,000 per accident.
- (d) **TIME LIMITS:** Permits shall be valid for a period of thirty (30) days from the date of approval, unless otherwise indicated in the permit, and may be renewed upon application.
- (e) **ASSUMPTION OF LIABILITY:** A permit shall be issued only upon the condition that the applicant sign a statement that he will indemnify and hold harmless the Town and its officers from all liability for damages caused to the Town's roads by the applicant's exercise of the permit.

9.108 RESERVED FOR FUTURE USE
9.109 EXCAVATIONS IN TOWN ROADS

- (1) **PERMIT REQUIRED:** No person shall make or cause to be made any opening or excavation in any Town Road without a permit therefore. Furthermore, any excavation which may last for longer than 89 days shall also comply with the requirements of '66.0425 Wis. Stats.
- (2) **EXCEPTIONS:** A permit shall not be required under the following circumstances:
- (a) No permit is required for excavations performed by the Town, or persons hired by the Town.
 - (b) No permit shall be required before the commencement of work if an emergency situation exists which requires immediate action to remedy a dangerous condition or to protect property, life, health or safety, provided however, that the person

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performing the work shall notify the Town Clerk or the Town Chairperson before commencing work and shall obtain oral approval for said work. Thereafter, the person performing the work shall apply for a permit as soon as possible, but in no event later than the close of the next business day.

- (3) **APPLICATION:** An application for a permit shall be filed with the Town Clerk, and shall include, for the purpose of enforcement of this Ordinance, the following information:
- (a) Name, address and telephone number of the applicant(s) who intends to perform the work, and the person(s) for whom the work is to be performed.
 - (b) The location of the work.
 - (c) A general description of the work to be performed, the method the applicant proposes to use in doing the work, and the reason for the work.
 - (d) The period of time during which the Road will be affected.
 - (e) The manner in which the traveling public will be notified of the work and will be protected from any danger presented by the work.
 - (f) Any other information which the Clerk deems necessary to the proper review and understanding of the application.
- (4) **TIME LIMITS:** Permits shall be valid for a period of thirty (30) days from the date of approval, unless otherwise indicated in the permit, and may be renewed upon application.
- (5) **FEES/SECURITY DEPOSIT:** The fees to be charged for each application and for the nature of the work to be performed, as well as the time and method of payment and collection thereof, shall be established by separate resolution of the Town Board. The Town Board reserves the right to require the applicant to post a bond, or other financial security, the conditions of which may include any of the following: that this ordinance shall be observed; that the plan of excavation will be carried out; that if there is a violation of this Ordinance or if the excavation plan is not carried out, all penalties, legal costs, and remediation expenses imposed hereunder shall be paid.
- (6) **INSURANCE REQUIRED:** A permit shall be issued only upon the condition that the applicant provides satisfactory evidence that the applicant has in force, and will maintain during the time the permit is in effect, public liability insurance of not less than \$500,000 per one (1) person and per one (1) accident, and property damage insurance of not less than \$500,000 per accident.
- (7) **ASSUMPTION OF LIABILITY:** A permit shall be issued only upon the condition that the applicant sign a statement that he will indemnify and hold harmless the Town and its officers from all liability for accidents and damages caused by any of the work covered by the permit, and that he will comply with the requirements of this Ordinance.
- (8) **FROZEN GROUND:** No openings or excavations shall be permitted between November 15 and April 15, except where it is determined by the Town to be an emergency.
- (9) **PROTECTION OF PUBLIC:**
- (a) Every opening and excavation shall be enclosed and marked with barriers, signs and traffic control devices as may be required by law and Section VI of the Manual of Uniform Traffic Control Devices.
 - (b) All necessary precautions shall be taken to guard persons and property from accidents or damage.

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- (c) Unless otherwise approved, a minimum of one (1) lane of traffic in each direction shall be provided. Every effort shall be made to provide reasonable access to all properties adjacent to the work. The permittee shall perform the work in such a manner so as not to disrupt the flow of traffic in the area.
 - (d) It shall be the permittee's responsibility to have the various utilities locate and mark their facilities prior to excavation. When the work will result in the loss of any utility service to a private property, a reasonable attempt shall be made to notify the occupant of the private property of the loss of service at least twelve (12) hours prior to the loss of service, unless the operation is part of an emergency excavation.
- (10) PAVEMENT REMOVAL:**
 - (a) Removal of existing pavement shall be to neat, straight, saw-cut lines. Excavation shall be kept to the minimum possible and acceptable for the convenience and safe performance of work, and in accordance with all applicable codes and regulations.
 - (b) If the pavement is damaged during excavation beyond the original saw cut lines, it shall be saw cut again along neat, straight lines. The finished saw cut shall leave a regular, rectangular section for pavement replacement. Should the road opening occur within, adjacent to, or close to an existing patch or require more than one (1) opening within a short distance, the Town may order the permittee to remove and replace additional pavement up to an existing patch or between openings.
 - (c) Pavement replacement areas shall be parallel with or at right angles to the direction of traffic.
- (11) EXCAVATION:**
 - (a) All excavated material shall be piled in a manner such that pedestrian and motor traffic is not unnecessarily disrupted. Ditches shall be kept clear and other satisfactory provisions shall be made for road drainage so that natural water courses are not obstructed.
 - (b) Excavated material to be used for backfilling of a trench must be so handled and placed to minimize inconvenience to public travel and adjoining owners and occupants.
- (12) BACKFILLING:**
 - (a) All backfilling materials shall be dry, clean, granular material, and shall be free from cinders, ashes, refuse, vegetable or organic matter, timbers and lumber, boulders, rocks or stones greater than 8 inches in diameter at their greatest dimension, frozen lumps or other material which, in the opinion of the Town Road Superintendent, is unsuitable. All wet spoils shall be removed.
 - (b) In refilling the excavation, if there is not sufficient material excavated suitable for refilling, the deficiency shall be made up with new material brought to the site.
 - (c) Excavations shall be carefully compacted in 6-8 inch lifts from the bottom of the excavation, with special care being made for existing utilities, pipes and other structures.
 - (d) Mechanical compaction shall be used on all materials used for trench backfill. Each layer (8-inch maximum), shall be uniformly compacted. Compaction or consolidation by flooding shall not be permitted.

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- (13) **NOTICES AND INSPECTIONS:** The permittee shall notify the Town at least three (3) business days before such work is to commence, unless an emergency exists as determined by the Town Road Superintendent. The permittee shall also notify the Road Superintendent at least four (4) hours prior to backfilling, and four (4) hours prior to final restoration of the surface.
- (14) **SURFACE RESTORATION:** Surfaces shall be restored as follows within twenty (20) days after the closing of the opening or excavation, unless otherwise permitted by the Road Superintendent.
- (a) **BACKFILL FOR PAVEMENT:** Backfill material on roads shall be left below the original surface to allow for a layer of 1 1/2-inch crushed stone and a layer of 3/4-inch crushed stone, plus the thickness of the previously-existing surface structure. The thickness of each layer of crushed stone shall be in accordance with the specifications on file with the Town. If a hard surface will not be installed as part of the road restoration operation, the opening to the original surface elevation shall be backfilled with compacted 3/4-inch crushed stone.
- (b) **SURFACE RESTORATION:** The road surface shall be restored to the same condition existing before the excavation. The finished surface shall be smooth and free of surface irregularities and shall match the existing adjacent surface.
- (c) **WINTER CONDITIONS:** During winter months, when it is not possible to replace existing hard surface with a like material, the excavation shall be temporarily resurfaced with a minimum of three and one-half inches of cold mix bituminous material. This temporary wearing surface shall be compacted and rolled smooth. These temporary wearing surfaces shall be removed and replaced with material as specified above by not later than the following June 1.
- (d) **OTHER SURFACES:** All other surfaces shall be restored as much as possible to the condition existing prior to the excavation. Contours of the land shall be restored to the extent possible. Grassy areas shall have 3 inches of black dirt placed on the surface and shall be reseeded.
- (e) **VARIANCES:** Upon written application, the Road Superintendent may grant a written variance from the foregoing surface restoration requirements if he determines that the pre-existing condition of the surface was substantially different from or substantially below the quality of the foregoing restoration requirements. In such case, the Road Superintendent may prescribe, in writing, different restoration requirements, provided such requirements create a surface at least as good as the surface existing prior to the opening or excavation.

9.110 OBSTRUCTIONS AND ENCROACHMENTS

- (1) **PROHIBITION:** No person shall encroach upon or in any way obstruct or encumber any Town road, park, public ground or land dedicated to public use, and no person shall permit any encroachment, obstruction or encumbrance to be placed or remain on any such public property adjoining the premises of which he is the owner or occupant, except as provided below.
- (2) **EXCEPTIONS:** The prohibition of subsection (1) shall not apply to the following:
- (a) Temporary encroachments or obstructions authorized by permit pursuant to '66.0425 Wis. Stats.
- (b) Equipment which is temporarily parked for not more than 2 hours, and which does not obstruct more than one-third of the traveled portion of the road, and which is properly flagged or signed to protect the traveling public.

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- (c) Excavations and openings permitted under §9.107 above.

(3) **ROAD PERMIT:**

- (a) **When Issued:** Permits to occupy, obstruct, or encroach upon Town roads or other public ground of the Town may be granted by the Town Board for the purpose of moving, erecting, altering, repairing, or demolishing any building or structure, or for the purpose of occupying, obstructing, or encumbering any road or public ground with the materials or equipment necessary in and about the moving, erection, alteration, repair or demolition of any building or structure.
- (b) **Permit Conditions:** Such permits shall be subject to the following terms and conditions:
- (1) Such temporary obstruction shall not cover more than one-third of any road.
 - (2) Obstructions shall be marked and/or lighted at night so as to be identifiable to the public from all directions.
 - (3) The process of moving any building or structure shall be as continuous as practicable until completed.
 - (4) No building or structure shall be allowed to remain over night on any road crossing or intersection or in such other place as to prevent easy access to any fire hydrant.
 - (5) Buildings shall be moved only in accordance with the route prescribed by the Town.
 - (6) Upon termination of the work necessitating such obstruction, all parts of the roads or public grounds occupied or used shall be vacated, cleaned of all rubbish and obstructions, and placed in at least the same condition they were in before commencement of the work. All damages to the roads and public grounds shall be promptly repaired by the permittee.
- (c) **Insurance and Bond:** A permit shall be issued only upon condition that the applicant submit satisfactory written evidence that applicant has in force and will maintain during the time the permit is in effect, public liability insurance of not less than \$500,000 per one person, \$500,000 per one accident, and property damage coverage of not less than \$500,000, providing coverage for accidents or damage caused by reason of work performed under said permit. The Town may also require the applicant to execute and file a bond in an amount determined by the Town, not exceeding \$50,000, conditioned upon the applicant indemnifying and holding harmless the Town from liability for damages to the roads or public property of the Town resulting from the work under said permit.
- (d) **Fee:** The fee for a road permit shall be set from time to time by resolution of the Board.
- (e) **Termination:** Such permits shall automatically terminate on the date stated in the permit. If any of the conditions of the permit are violated, the permit may be revoked or suspended by the Town, without notice.
- (f) **Statutory Requirements:** If any permit is issued for a period of three (3) months or longer, the requirements of '66.0425 Wis. Stats. shall also be satisfied, and are incorporated herein by reference to the extent applicable.

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9.111 BRUSH/TREE REMOVAL IN ROADS

- (1) **WIDTH OF ROADS:** All town roads shall be presumed to be sixty-six (66) feet wide, unless another width is specifically established by highway order or written conveyance.
- (2) **ROAD CLEARING PROJECTS:** From time to time, the Town Board shall determine when it is reasonable and necessary to clear and improve the right-of-way of Town roads. Whenever such decision is made, the Town shall employ the following procedure:
 - (a) **Notification:** Whenever the Town decides to clear and/or improve the right-of-way of a Town road, the Town shall give written notice to all property owners adjacent to that part of the road scheduled for improvement at least thirty (30) days prior to the commencement of work by the Town. Such notice shall state the nature of the work, the location of the work, the anticipated commencement date of the work, and the identity (e.g. name, address, and phone number) of the contractor who will be performing the work. Furthermore, such notice shall ask the landowner to make the election described below regarding marketable timber.
 - (b) **Landowner Election:** Each landowner shall be given the opportunity to make one of the following elections, within 14 days of mailing the above notice, regarding the handling of marketable timber to be removed from that portion of the right-of-way adjacent to the landowner's property:
 1. **Option No. 1:** The landowner may elect to have the Town dispose of the marketable timber, at no cost to the landowner.
 2. **Option No. 2:** The landowner may elect to have the marketable timber placed on that portion of the landowner's property immediately adjacent to the right-of-way from which the timber is removed. This Option may only be selected only if the topography and condition of the adjacent property provides a suitable location for placement of such timber in the opinion of the Town.
 3. **Option No. 3:** The landowner may elect to have the marketable timber left in the right-of-way from which the timber is removed, provided (i) this Option may only be selected if the topography and condition of the right-of-way provide a suitable location for the placement of such timber in the opinion of the Town, and (ii) the landowner removes the timber from the right-of-way within thirty (30) days of cutting, and (iii) in the event that the landowner fails to remove such timber from the right-of-way within 30 days, the Town shall have the right to remove and dispose of the timber and shall charge the cost thereof to the landowner.
 4. **Option No. 4:** The landowner may elect to execute a written contract with the entity performing the work, to pay the cost to deliver the marketable timber to a location agreed upon in the written contract. If this option is selected, the landowner shall provide a copy of said written contract to the Town within 21 days after mailing of the above-described notice from the Town.
 - (c) **Failure of Landowner to make election:** If a landowner fails to make an election, in writing, within 14 days of mailing of the notice, the Town shall assume that the Landowner has elected Option No. 1 and shall proceed accordingly.

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9.112 DISCONTINUANCE OF ROADS

- (1) **PROCEDURE:** The procedure contained in Sec. 66.1003 Wis. Stats. (and all amendments thereto) shall be followed.
- (2) **FEES:** The fee to be charged for each petition shall be established by separate resolution of the Town Board.
- (3) **REVERSION OF TITLE:** Title to the property of any discontinued road shall revert to the adjoining lands as required by §66.1005 Wis. Stats. (and all amendments thereto).
- (4) **COSTS:** The owner(s) of adjoining lands, to which title to the vacated property reverts, shall pay (i) the cost incurred by the Town in discontinuing the road, alley or other public way, and (i) the cost incurred in transferring title of the vacated property to the adjoining landowner(s). These costs include (but are not limited to) survey costs, title costs, document preparation costs, publication costs, recording fees, and transfer fees. Exceptions to these costs may be made, in the sole discretion of the Board, (i) when the cost of transfer would exceed both the value of the property transferred and the value of the adjoining property to which the property is transferred, or (ii) when the public benefit of the discontinuance outweighs the benefit to the adjoining landowner(s). These costs shall be billed directly to the adjoining landowner(s), on a pro-rated basis based upon the square footage of land received by each adjoining landowner, and if not paid, shall be assessed against the adjoining land(s) as permitted by law.

9.113 ENFORCEMENT AND PENALTIES

- (1) **CHAPTER 25:** Except as otherwise specifically provided in this subsection, the penalties for a violation of this subchapter, shall be as provided in Chapter 25 of this Code.
- (2) **ABATEMENT BY TOWN:** In addition to any other penalty provided herein, the Town may abate any violation of this subchapter through the following procedure:
 - (a) **Non-Hazardous Conditions:** The Town may cause the issuance of a written notice to the responsible person(s) directing him to correct and abate the violation on or before a specified date, but not sooner than 72 hours following service of said notice. The written notice may be served by personal service or by certified mail, return receipt requested, to the last-known address of the responsible person(s). If the responsible person(s) to whom notice has been given fails to remove or abate the violation within the time established, the Town may remove or abate said violation at the expense of the responsible person(s).
 - (b) **Hazardous Conditions:** If the Town determines that the violation creates a substantial and immediate danger to public safety, the Town shall attempt to contact the responsible person(s) in any way or form which the Town deems most expedient, in order to give such responsible person(s) notice of the problem and the opportunity to immediately correct the problem. If such responsible person(s) cannot be promptly notified by the Town, or if the responsible person(s) cannot or will not immediately abate the violation, the Town may immediately take steps to abate the violation without providing any further notice to the responsible person(s).
 - (c) **Charges:** An account of the expenses incurred by the Town to remove or abate the violation shall be kept and such expenses shall be charged to and paid by the responsible person(s). Notice of the expenses shall be mailed to the last-known address of the responsible person(s) and shall be payable within ten (10) calendar days from the mailing thereof, and if not paid, the Town Clerk shall enter those charges onto the tax roll as a special tax pursuant to sec. 66.615(5) Wis. Stats. against the real estate of any or all responsible person(s), or the Town may collect such charges through any other lawful procedure.

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- (d) **Authorized Personnel:** The Town Chairperson or the Town Clerk, in conjunction with the Road Superintendent are authorized to make the determinations permitted by this section. The Chairperson, Clerk and Superintendent are authorized to issue the notices permitted by this section.
- (3) **VIOLATIONS:** Each violation and each day a violation continues or occurs, shall constitute a separate offense hereunder. The prosecution of two or more offenses committed by the same violator may be joined into one action, and the prosecution of two or more violators for the same offense may be joined into one action.