

Title 6 ► Chapter 2

Laying Out and Construction of Town Highways and Roads

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Sec. 6-2-1 Application to Lay Out and Construct Highway.

An application under this Chapter to lay out and construct a new Town highway, other than as part of a new subdivision or plat, may be filed by six (6) or more resident freeholders of the Town. Said application must be in writing and it may be delivered to any Supervisor or the Town Clerk. The application shall contain a complete description and a survey map of the property in question. New streets and roads in subdivisions and plats shall be constructed pursuant to the Town subdivision ordinance and this Chapter where it is not in conflict with the Town subdivision ordinance.

State Law Reference: Section 80.02, Wis. Stats.

Cross-Reference: Title 14 and Land Division and Subdivision Code

Sec. 6-2-2 Restrictions on Laying Out Highways.

- (a) No Town highway shall be laid out through or upon any cemetery without the consent of those having the control of the cemetery.

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- (b) No Town highway shall be laid through or upon any structure, yard or enclosure used for educational or charitable purposes.
- (c) No Supervisor shall act in laying out, altering, widening or discontinuing any highway in which he/she may be personally interested.
- (d) When the laying out of a highway would require the construction of a bridge costing more than One Thousand Dollars (\$1,000.00), exclusive of donations, the order of the Supervisors laying out such highway shall not be effective unless approved by the electors of the Town, and an estimate by the Wisconsin Department of Transportation shall be conclusive of the cost of such bridge for the purposes of this Section.
- (e) Without the consent of the owner, no Town highway shall be laid out through or upon any garden or orchard or any building or fixture used for trade or manufacture or any other building or fixture or the yard or enclosure necessary to the use thereof, when the damage thereby caused thereto, exclusive of the damage to the land, exceeds Three Hundred Dollars (\$300.00).

State Law Reference: Sections 80.02, 80.03 and 80.04, Wis. Stats.

Sec. 6-2-3 Procedure After Application is Filed.

- (a) On application made pursuant to Sec. 6-2-1 above, the Town Board shall prepare a notice fixing therein a time and place at which they will meet and decide upon the application.
- (b) The notice shall specify as near as practicable the highway proposed to be laid out, widened, altered or discontinued and the tracts of land through which the highway passes.
- (c) If the application is for discontinuance, the notice shall specify the tracts of land abutting on the highway which will be benefited or injured by such discontinuance.
- (d) When the description in the aggregate exceeds two hundred (200) words in length, the notice may state that such descriptions are contained in the application as provided in Sec. 80.02, Wis. Stats., and shall give the name and address of the Town Clerk to whom the application has been delivered.

State Law Reference: Section 80.05(1), Wis. Stats.

Sec. 6-2-4 Duties of Applicants After Application is Fixed.

- (a) Applicants shall at least ten (10) days prior to date of hearing give notice by registered mail to all occupants and owners of record of lands through which the highway may pass.
- (b) Applicants shall give notice to the Wisconsin Department of Natural Resources by registered mail.

- (c) Applicants shall give notice to the Board of Soil and Water Conservation District by registered mail.
- (d) Applicants shall publish the notice as a Class 2 notice under Ch. 985 of the Wisconsin Statutes.
- (e) Failure of applicants to comply with this Section will invalidate the entire proceeding.

State Law Reference: Section 80.05(2), Wis. Stats.

Sec. 6-2-5 Proceedings After Notice.

- (a) The Supervisors shall meet at the time and place stated in the notice pursuant to Sec. 6-2-3(a).
- (b) The Supervisors are to be satisfied that all notices as required by this Chapter and the Laws of the State of Wisconsin have been complied with.
- (c) The Supervisors shall personally examine the highway which is the subject of the application and shall hear any reason that may be offered for or against laying out, widening or altering the highway.
- (d) The Supervisors shall, after complying with Subsections (a), (b) and (c) above, decide upon the application and shall grant or refuse the same as they deem best for the public good.
- (e) The Supervisors may adjourn said hearing from time to time, not exceeding in all thirty (30) days from the time of the first meeting, giving public notice of the time and place of such adjournment and by filing forthwith of such adjournment in the office of the Town Clerk.

State Law Reference: Section 80.06, Wis. Stats.

Sec. 6-2-6 Order, Award and Recording.

- (a) When Supervisors lay out, alter, widen or discontinue any highway, they shall make and sign an order therefor, incorporating therein a description of the highway and cause survey thereof to be made when necessary.
- (b) Damages are to be awarded to landowner pursuant to Sec. 6-2-7 hereafter and Sections 80.09 and 80.10, Wis. Stats.
- (c) The order and award of damage shall be filed and recorded in the office of the Town Clerk within ten (10) days after the date fixed by the notice or adjournment for deciding upon the application.
- (d) If the Supervisors fail to file the order and award within ten (10) days, they shall be deemed to have decided against the application.
- (e) A certified copy of the order shall be transmitted by the Town Clerk to the Fond du Lac County Highway Commissioner.

State Law Reference: Section 80.07, Wis. Stats.

Sec. 6-2-7 Damages.

- (a) The applicant(s) shall secure a release of damages from all occupants and owners of record and file it with the Town Clerk. The damages sustained by any person upon whose land any highway be laid out, widened or altered shall be fixed by agreement signed by the owner and the Supervisors and be filed in the Town Clerk's office. Such agreement and every release of damages given shall bar any further claims for damages by the owner and all persons claiming under him/her. A land conveyance shall accompany the release of damages, which shall be properly recorded with the Fond du Lac County Register of Deeds.
- (b) If any owner does not so agree with the Supervisors as to his/her damages or does not deliver to the Supervisors a written release of all claims for damages, the Supervisors shall, at the time of making the highway order, assess the damages and make a written award specifying the sum awarded by them to each owner. The award shall be signed by the Supervisors and be filed in the Town Clerk's Office with the order laying out, widening, altering or discontinuing the highway.

State Law Reference: Sections 80.09 and 80.10, Wis. Stats.

Sec. 6-2-8 Appeals.

- (a) **Appeal From Highway Order** shall be pursuant to Sec. 80.17, Wis. Stats.
- (b) **Appeal From Award of Damages** by owner shall be pursuant to Sec. 80.24, Wis. Stats.

State Law Reference: Sections 80.17 and 80.24, Wis. Stats.

Sec. 6-2-9 Payment of Construction Expenses.

All expenses involved in the preparation, construction and dedication involved in highway construction under this Chapter shall be borne by the applicant(s).

Sec. 6-2-10 Preliminary Inspection.

Prior to the design, preparation and construction of any roadway to be dedicated to the Town of Friendship, the applicant shall notify the Town Chairperson or Town Clerk. An on-site meeting will then be arranged to be attended by the Town Board, the Town Engineer and the applicant. Plans must be provided in order for the Town Engineer to check the design and the drainage.

Sec. 6-2-11 Performance Bond.

At the option of the Town Board, the applicant(s) shall prepare the highway (grade, ditch, and gravel, etc.) one year and surface it the next year in order to further compact the roadbed. If so, the applicant(s) shall provide a bond or irrevocable letter of credit which would enable the Town to finish the road, in case of default by the applicant(s). The performance bond, irrevocable letter of credit, or cash escrow agreement shall be equal to the Town Board's or Town Engineer's estimated cost of the required improvements adjusted for inflation. If the required improvements are not complete within the eighteen (18) month period, all amounts held under the escrow agreement or performance bond shall be turned over and delivered to the Town and applied to the cost of the required improvements. Any balance remaining after such improvements have been made shall be returned to the owner or subdivider. The Town Board, at its option, may extend the bond period for any additional period not to exceed one (1) year; however, the initial bond shall be required to run one (1) year beyond the initial date of acceptance of improvements.

Sec. 6-2-12 Roadway Specifications.

The road construction specifications for plats prescribed in Title 14 shall be applicable for both new roads ordered constructed under this Chapter and for roads required as a condition of new plat approval.

Sec. 6-2-13 Final Inspection.

Upon completion of the proposed highway, the Town Engineer will proceed to make final inspection, accepting or rejecting road as the case may be. After all of the provisions of this Chapter have been complied with, the roadway or easement will be inspected by the Town officials and, at that time, proof will be made by the presenting of waivers of liens or receipted bills that all work that has been done has been paid for or arrangements have been made for the payment through written instrument by the subdivider. If the road is rejected, corrections shall be made as recommended by Town Board, upon the Town Engineer's recommendation, before final inspection can then be made again. If final acceptance is then made, the owner or owners shall turn over to the Town the deed of all land necessary for the road as previously mentioned.