

CHAPTER 4

TOWN ROAD ORDINANCE

4.1 DEFINITIONS. In this Ordinance, the following words and phrases shall have the designated meaning unless a different meaning is expressly provided or the context clearly indicates a different meaning:

- (1) Board. The Town Board of the Town of Black Earth
- (2) Certified Survey Map. A map of land division, not a subdivision, prepared in accordance with Section 236.34 of the Wisconsin Statutes and in full compliance with the applicable provision of this chapter. A certified survey map has the same legal force and effect as a subdivision map.
- (3) Clerk. The Town of Black Earth Clerk.
- (4) Developer. A person or entity which undertakes proposing and/or constructing modifications to real estate and/or improvements to real estate, including buildings or infrastructure.
- (5) Town Engineer. A firm or individual designated by the Town Board to advise the Town Board on a particular project; if the Town Board does not designate an engineer, the term shall be defined to mean the Town Board.
- (6) Land(s). Any real estate or interest in real estate.
- (7) Plan Commission. The Town of Black Earth Plan Commission.
- (8) Lot. A land area of thirty five acres or less.
- (9) Parcel. A tract of real estate.
- (10) Plan. A map or sketch of a proposed road prepared in conformity to the requirements of Chs. 80-86, Wis. Stats.
- (11) Private Road. A street or road which is owned by the owner or owners of adjacent lands and is not open to public travel.
- (12) Public Way. Any public road, street, highway, walkway, drainage way, or part thereof.
- (13) Street, Road, Highway. A public way for pedestrian and vehicular traffic whether designated as a street, highway, road, land, way, avenue or however otherwise designated.

(a) Arterial Streets and Highways Those streets which provide rapid movement of concentrated volumes of traffic over relatively long distances. They provide principally for movement of persons and goods between high activity area.

i. Principal Arterials Those streets serving the major interstate corridors and corridors which connect major cities and regions. These routes provide the highest level of mobility and form a continuous system with constant operating conditions under a high degree of access control.

ii. Primary Arterials Those streets serving long trips between important cities and the major intra-community corridors within the metropolitan area. These routes provide for a high degree of mobility under a high degree of access control.

iii. Standard Arterials Streets which more commonly provide for intermediate length trips, thus serving through traffic movement in trade areas, or feeding traffic to the primary and principal arterials from lower activity area not served by such routes.

(b) Collector Streets Those streets which provide moderate speed movement of persons and goods within large areas. They are basically local streets which usually, because of more directness of routing and higher capacity than other local streets, receive higher volumes of traffic to be distributed from or collected toward nearby arterial streets.

(c) Connector Streets Those streets which perform a semi-arterial function as well as serving as distribution and land access streets.

(d) Distributor Streets Those streets which perform the function of gathering and distributing traffic from and to the local streets and adjacent lands.

(e) Local Streets Those streets which are designed for low speeds and volumes and are to provide access from low-generation land activities to the collector and arterial systems.

(f) Marginal Access Streets Those streets which are parallel and adjacent to arterial streets and highway and which provide access to abutting properties and protection from through traffic.

(g) Alleys Streets which provide secondary means of access for vehicular services to the back or side of property otherwise abutting a street.

(h) Cul-de-sac Streets closed at one end with turnarounds.

(i) Dead-end streets Streets closed a one end without turnarounds.

(14) Subdivision A division of a parcel of land where the act of division creates either:

- (a) Five or more lots, parcels or building sites of 35 acres each or less in area; or
- (b) Five or more lots, parcels or building sites of 35 acres each or less in area by successive divisions within a period of five years.

(15) Town. The Town of Black Earth, Dane County, Wisconsin.

4.2 STREETS AND ROADS REGULATED; PENALTIES. No person, firm, corporation, partnership, or legal entity of any kind shall construct, establish or maintain any street, highway or road, nor shall such be laid out or improvements made to land without compliance with all requirements of this ordinance and with all of the following:

(1) The rules of the Wisconsin Department of Transportation and the Dane County Department of Transportation relating to safety of access and the preservation of the public interest and investment in the highway system if the land owned or controlled by the Developer abuts on a state or county trunk highway, respectively, or a connecting street, including, but not limited to, minimum width regulations.

(2) All applicable Town land use or comprehensive plans, as adopted under sec. 60.61, Wis. Stats., zoning ordinances, official maps, and any other ordinances and regulations.

4.3 APPLICATION FOR APPROVAL OF ROAD OR STREET.

(1) Every person or party proposing to construct a road or street shall submit a written application for approval of the same to the Town. No separate application shall be required if the road or street is proposed as part of a proposed plat or certified survey map, but the roads and streets in plats or certified survey maps shall conform to the requirements of the Land Division ordinance and this ordinance.

(2) The application shall be accompanied by a scale map prepared by a surveyor which shows the location and design of the proposed road or street. The application shall also specify the proposed name of the road or street, the parties responsible for construction of the road or street, and the anticipated schedule of construction of the road.

(3) Before any proposed road or street is approved, the applicant shall enter into a development agreement with the Town wherein the applicant agrees to construct the road or street eighteen (18) months of the date that the application is approved. All required improvements in the plat shall be completed prior to occupancy of any structure served by the road. The Town Board may allow phased construction of streets or roads.

(4) The Town Board shall review the proposed street or road, the plans therefor, the proposed security for the improvements, and the development agreement. The town may

require the applicant to provide additional information necessary, in the judgment of the Town, to properly review the application.

(5) The Town Board may approve, reject or modify the application, and shall give the applicant due notice of its action.

4.4 SECURITY FOR COMPLETION OF CONSTRUCTION.

(1) At the time the development agreement is executed, the Developer shall file a bond, certificate of deposit, irrevocable letter of credit, or certified check, in such form as is acceptable to the Board and approved by the Town Attorney, with the Town in an amount equal to one hundred twenty five percent (125%) of the estimated cost of the required improvements as determined by the Town Engineer. Such deposit shall guarantee that such improvements will be completed according to Town Specifications by the Developer or its contractors not later than eighteen (18) months from the date that the application is approved or, where staging is permitted, that each stage will be completed by the date specified in the installation and completion schedule. Such security shall be held by the Town and either released or used in the manner specified in this ordinance. The provision of security by the applicant shall not release the applicant from its obligations under the development agreement nor prejudice the right of the Town to recover the full cost of completion of the improvements if the applicant fails to complete the same.

(2) The State of Wisconsin, Dane County and a City, Village or Town of Dane County may, in lieu of the bond or security provisions of this ordinance, may file a resolution duly adopted by such governmental unit agreeing to comply with the provisions of this section.

4.5 CONSTRUCTION IN PHASES. The applicant may elect, with the approval of the Town board, to install the improvements in phases, provided that:

(1) The phases are specified in the development agreement for the road or street.

(2) Improvements constructed during the first, and each subsequent, stage, of construction shall not be accepted nor shall any occupancy permits be issued within the completed area of the subdivision or development until the security required for the next stage of construction has been posted with the Town.

(3) The applicant shall record deed restrictions reviewed by the Town (or its designated representative) which specify that the lots included in future construction phases shall not be conveyed, transferred or sold unless the Town's approval is obtained.

(4) Erosion control plans and measures submitted and approved shall address the erosion problems posed by the construction of the project in phases.

4.6 RESERVATION AND DEDICATION OF LAND; WARRANTY.

(1) All or any part of a street, an arterial street, drainage way or other public way which has been approved by the Town shall be dedicated to the public by the applicant in the locations and dimensions indicated on the plan or map approved by the Town. The Town hereby finds that dedication of the land underlying streets or roads is a reasonable and necessary condition for the Town's agreement, by accepting said road or street, to maintain the same for the welfare of the public.

(2) Every developer shall, as a condition of the Town's acceptance of a road, warrant the road to be in suitable condition, good repair and free of defects, excluding ordinary wear, for a period of one (1) year from the date it is accepted for dedication. The security provided by the developer pursuant to section 4.04 of this Code shall remain in effect until the expiration of the warranty period at which time the Town Board would authorize the release of the letter of credit, certificate of deposit or other security.

4.7 STREET ARRANGEMENT.

(1) The street layout shall conform to the arrangement, width and location indicated on any official map, land use plan or component neighborhood development plan of the Town. In areas for which plans have not been completed, the street layout shall recognize the functional classification of the various types of streets and shall be developed and located in proper relation to existing and proposed streets, to the topography, to such natural features as streams and tree growth, to public convenience and safety, to the proposed use of the land to be served by such streets, and to the most advantageous development of adjoining areas.

(2) Arterial Streets shall be arranged so as to provide ready access to centers of employment, centers of governmental activity, community shopping areas, community recreation and points beyond the boundaries of the community. They shall also be properly integrated with and related to the existing and proposed system of major streets and highways and shall be, insofar as practicable, continuous and in alignment with existing or planned streets with which they connect.

(3) Collector Streets shall be arranged so as to provide ready collection of traffic from residential areas and conveyance of this traffic to the major street and highway system and shall be properly related to the mass transportation system, to special traffic generators such as schools, churches, shopping centers and other concentrations of population, and to the major streets into which they feed.

(4) Local Streets shall be arranged to conform to the topography, to discourage use by through traffic, to permit the design of efficient storm and sanitary sewerage systems, and to require the minimum street area necessary to provide safe and convenient access to abutting property.

(5) Proposed Streets shall extend to the boundary lines of the tract being subdivided unless prevented by topography or other physical conditions or unless, in the opinion of the Town Board, such extension is not necessary or desirable for the coordination of the layout of the subdivision or for the advantageous development of the adjacent tracts. Temporary turnarounds shall be required where the street ends at the boundary of the subdivision. The road right of way shall continue to the adjacent lands and connect to roads constructed on such lands if approved by the Town Board.

(6) Arterial and Highway Protection. Whenever the proposed subdivision contains or is adjacent to a major highway, adequate protection of residential properties, limitation of access and separation of through and local traffic shall be provided by reversed frontage, with screen plantings contained in a non-access reservation along the rear property line, or by the use of frontage streets.

(7) Reserve Strips controlling access to roads or highways are prohibited except where control of such strips is placed with the Town under conditions approved by the Town Board.

(8) Private Roads. Private roads are drives or streets which are used to serve residences or structures but are not dedicated to the Town. As a condition of approving the construction of any Development served by private roads, the Town shall require that the Developer of the private road grant a perpetual easement allowing access to the private road by all emergency services, town or county code administrators or other public agencies engaged in the delivery of public services. Private roads may be gated provided that access for public services is provided. The Town shall have no responsibility to maintain, plow, improve or service private roads.

4.8 STREET NAMES AND NUMBERING.

(1) Street names and building numbers shall be assigned in accordance with the provisions of Chapter 76 of the Dane County Ordinances.

(2) In the case of private roads, the Town shall assign names to the private roads. The street signs for such private roads shall contain the words "Private Road" on the green street name sign below the name of the road. The Dane County Zoning Department shall assign Town street numbers to the residences and structures located on private roads.

(3) The following designations shall be used only in the situations indicated:

- (a) Lane - a street, one block long, not ending in a cul-de-sac.
- (b) Circle - a cul-de-sac of nine lots or more.
- (c) Court - a cul-de-sac of eight lots or less.

4.9 STREET DESIGN STANDARDS.

(1) Ordinary Right of Way. The ordinary right-of-way for all proposed streets and roads shall be 66 feet. If no width is specified in an order, document or deed creating a road the width shall be 66 feet.

(2) Clearance. Ordinarily, the entire right-of-way of a road should be cleared. The Town Board may waive this requirement to maintain existing trees or vegetation.

(3) Cul-de-Sac Streets. All cul-de-sac streets shall conform to the following standards:

(a) Ordinary maximum. Streets designed to have one end permanently closed shall not exceed 1,000 feet in length. A longer street length may be permitted by the Town Board if the Town Board determines that a longer cul-de-sac will result in more efficient use of land.

(b) Except where the Town Board grants a waiver due to unique conditions of the land, streets which are designed to have one end permanently closed shall terminate in a circular turnaround having a minimum right of way diameter of 115 feet, and a minimum paved diameter of 75 feet. The Town may allow another alignment of turn-around such as a “hammerhead” if appropriate. The reverse curve on a cul-de-sac shall have a 100 foot minimum radius when the bulb is centered on the street and 100 foot minimum radius when the bulb is offset.

(c) In areas zoned industrial or another commercial zone, all streets which are designed to have one end permanently closed shall terminate in a circular turnaround having a minimum right-of-way of 175 feet, and a minimum paved diameter of 120 feet.

(4) Street Grades and Radii of Curvature. Unless necessitated by exceptional topography and subject to the approval of the Town, the street grades and radii of curvature shall conform to the Design Standard in the Department of Transportation Facilities Development Manual. In the event of a conflict between the County and Town standards, the Town shall determine which standard shall be applied, on the basis of which standard is best suited to the estimated traffic load of the proposed road.

(5) Ditches shall be constructed whenever storm sewers are not required by the Town Board.

(a) Ditches shall be restored with 4" topsoil, fertilizing, seeding and mulching in accordance with the current Standard Specifications for Road and Bridge Construction, State of Wisconsin Department of Transportation.

(b) Where ditches are required, streets shall be constructed as indicated in Figure 1. All roads in the Town of Black Earth shall be constructed according to the specifications stated in this section.

(6) Construction.

(a) All roads shall have a bituminous paved surface.

(b) The paved surface shall meet facilities development manual standards with 3-foot wide aggregate shoulders and roadside ditches with a minimum of two feet in depth. The road shall have a gravel base at least 12 inches in depth, or more if required by the soil conditions. The pavement shall be laid in a binder course of asphalt which is at least two and one-half (2.5) inches in thickness.

(c) The final course of a street serving residential property shall be at least one and one-half inches thick with TAC coat to the road base. In a commercial zone, the final course shall be two inches thick. The final course shall be applied after a full winter freeze and thaw cycle and within one year of laying of the binder course.

(d) All areas which are disturbed in the course of construction shall be fertilized, seeded and mulched. The Town may require sodding of surfaces which have a slope of more that 2:1 or are otherwise susceptible to erosion.

(e) The work for road construction shall be inspected by the Town as described in this paragraph. The Town shall inspect the road when subgrade is prepared; after the aggregate base course is installed but before the binder course is laid; after the binder course has been laid; before top course is laid, and, after completion of the entire road. The road's Developer shall reimburse the Town for all fees incurred by the Town to perform these inspections.

(f) Upon approval by the Town of the completed road, the Developer shall dedicate, by appropriate deed, a 66-foot side strip of real estate whose central line is the newly constructed road.

(7) Private roads. Although private roads are not to be accepted for dedication, in order to assure the safety and welfare of the public, the town requires that private roads meet the requirements of the Ordinance, except that the ordinary paved or improved width of private roads shall be not less than 49.5 feet. Private roads may have gated access. If a private road is to be modified, expanded or enlarged, any existing residences served by the private road or roads shall continue to have comparable access through the revised private road or roads.

4.10 STREET/ROAD SIGN COSTS.

(1) The Developer shall be responsible for the initial cost of the street/road signs for new or upgraded roads. The Town will order and install the signs after construction of the roads. The Developer will be billed for the cost and installation.

(2) The Developer will also be responsible for payment of any signing fees imposed on the Town by the County or other authority. Payment will be required prior to issuing any building permits.

4.11 WAIVER

(1) Where, in the judgment of the Town Board, it would be inappropriate to apply the provisions of this Ordinance to a proposed street or road because inconvenience or practical difficulties resulting from the characteristics of the land or the nature of the proposed Development would result, the Town Board may waive or modify any requirement of this ordinance, but only to the extent a waiver is found to be just and proper.

(2) The Town Board shall grant such relief only where it will not be detrimental to the public good, impair the intent and purpose of this ordinance, or impair the desirable general development of the community in accordance with the land use plan. Any applicant who requests a waiver of provisions of this ordinance shall make a written application for a waiver and file the application with the Town Clerk.

(3) A proposed plat or certified survey map which contains proposed roads that deviate from the standards in this ordinance constitutes a written application for a waiver.

(4) The Town Board shall hold a public hearing on the application not less than 10 days nor more than 45 days after the date on which the request is filed. The Town Clerk shall mail a notice of the hearing to all adjacent landowners and to the County Highway Department.

(5) The waiver application (other than a plat or certified survey map) shall state the basis for the application and the specific hardship which is claimed to exist. Any waiver, exception, or variance which is granted pursuant to this section shall be made in writing, shall state the reasons which justified it, and shall be filed with the Town Clerk.

4.12 REQUIRED IMPROVEMENTS PROCEDURE

(1) PLANS AND CONSTRUCTION SPECIFICATIONS. Prior to commencing construction of any required improvement, the applicant shall prepare construction plans and specifications and submit them to the Town Engineer or designee for review and approval. The Town Engineer may require the submission of the following plans and accompanying construction specifications before authorizing construction or installation of the improvements:

- (a) Street plans and profiles showing existing and proposed grades, elevations and cross sections of required improvements.
- (b) Storm water and surface water drainage plans.
- (c) Such additional plans or information as may be required by the Town Engineer.
- (d) Plans and specification for all utilities and underground facilities.

(2) PRIVATE CONTRACTS. The Developer shall engage one general contractor whose qualifications have been approved by the Board for each major phase of construction (grading, utilities, streets) or one general contractor for a contract which includes more than one phase of construction.

(3) SCHEDULING. All scheduling of the contemplated improvements shall be approved by the Town Engineer. Construction may not be commenced on any phase of construction until all approvals and conditional requirements are satisfied and a copy of the private contract has been filed with and approved by the Board. Construction shall not proceed until all State of Wisconsin approvals are granted.

(4) STREET GRADING

(a) The Developer shall furnish standard drawings which indicate the existing and proposed grades of streets shown on the plan, and after review of design engineering work on the streets by the Town Engineer and approval of street grades by the Board, the applicant shall grade or cause to be graded the full width of the right of way of the streets proposed to be dedicated, including the vision clearance triangle on corner lots. In those cases where existing street right of way is made a part of the applicant's plan or abuts the area included in the plan, he/she shall grade or cause to be graded that portion of the right of way between the existing pavement and the property line. The bed for the roadways in the street right of way shall be graded to sub-grade elevation.

(b) The Town Engineer shall inspect the proposed street before grading and approve all grading within right of way. The street grading shall extend for a sufficient distance beyond the right of way to insure that the established grade will be preserved. The grading of rights of way for principal and primary arterials shall only be required where necessary to provide access to the streets or lots in the plan. Lots which abut principal and primary arterials shall be graded to proposed street grade or to a grade approved by the Town Engineer prior to the sale of affected properties.

(c) The Developer shall engage a licensed professional engineer to set sub-base grade in accordance with approved centerline grade and cross section; and to set

grades necessary to comply with other grading requirements, including vision clearance on corner lots, centerline and lot line grades for green ways, terrace grading for abutting streets and other required grades. The grading program shall consist of the following elements:

- i. The stripping and removal of all topsoil, debris and vegetation within the street right of way.
- ii. Grading of full street right of way to a tolerance of 0 to 0.2 feet below proposed centerline grade. Fill sections shall be constructed of approved materials, which do not include topsoil, debris, vegetation, etc.
- iii. Grading beyond right of way to insure that the established grade will be preserved.
- iv. Grading of vision clearance triangle on corner lots (Maximum embankment of three (3) feet above curb elevation within a triangle formed by two intersecting street lines or their projections and a line joining points on such street lines located 25 feet from the street intersection).
- v. Where the public green way is included in the project the Developer is responsible for an acceptable continuous drainage way in the green way as determined by the Town Engineer.
- vi. All additional grading, where applicable of lots abutting green ways, terraces of streets abutting plat, public easements for sanitary sewer and sidewalk, and other requirements of ordinances and special conditions of plat approval. There shall be a plan for disposal of any surplus soil or earth.

(d) Where a natural drainage way exists which has acceptable hydraulic capacities including alignment and grade as determined by the Town Engineer, construction will not be required and the existing natural growth shall be preserved. When such natural growth is not preserved by action of the applicant or his/her agent, he/she shall be responsible for repairing the disturbed areas by sodding. However, in certain locations, as determined by the Town Engineer, where the hydraulic capacities including alignment and grade are not acceptable, then such alignment, grade and slopes shall be improved by the applicant to the, the depth, width and slopes as determined by the Town Engineer, all to be seeded.

(e) The applicant shall install permanent pipes or culverts at a grade designated by the Town Engineer under all streets crossing a green way or drainage way. Said installation shall be in accordance with the Standard Specifications for Road and Bridge Construction of the Department of Transportation of the State of Wisconsin. All costs of the installation shall be the responsibility of the applicant. The permanent pipe or culvert shall not be installed prior to the installation of a street crossing a green way unless done pursuant to written agreement between the Engineer and the applicant. Culverts required across intersections for temporary street drainage shall be furnished and installed by the Developer at his expense. All temporary culverts installed by the Developer shall be completely removed when the

streets are constructed to standards and the area restored to as near to original condition as possible as determined by the Town Engineer.

(f) All ditching and culvert installation shall be done in strict accordance with grades approved by the Engineer. The applicant's engineer shall be responsible for setting all required grades in the field for construction purposes.

(5) STREET CONSTRUCTION. After completion of the underground utilities and approval thereof, the streets shall be constructed.

(6) CHANGE ORDERS. When extra work not specified in the contract is required to complete the project, the Town will notify the Developer or his/her engineering representative. No extra work shall proceed until the Developer or his/her representative has entered into a written agreement for the additional work and any modifications to the security for completion of the improvements have been made.

(7) EROSION CONTROL.

(a) The applicant shall take all steps necessary to prevent the erosion, siltation, sedimentation, washing and blowing of dirt and debris caused by grading, excavations open cuts, side slopes, and other activities by the applicant or his/her contractors. Reasonable methods of control shall include, but not be limited to, seeding and mulching, sodding, berm construction, pond construction, and watering.

(b) In such cases where the method of control has failed, the Developer shall clean up the materials which have been displaced prior to construction of additional improvements.

(c) Plans for erosion control shall be submitted to the Town Engineer for review and approval before any land surface disturbances are made. The Engineer's decision may be appealed to the Board.

(8) FLOOD PLAIN/SHORE LAND. All provisions of Dane County Ordinances relating to flood plain and shore land zoning are incorporated herein and adopted by reference.

(9) INSPECTION. Prior to commencing any work within the subdivision, the applicant shall make arrangements with the Town Engineer to provide for adequate inspection. The Town Engineer shall inspect and approve all completed work prior to acceptance of the road or any release of the securities deposited pursuant to this Ordinance.

4.13 ACCEPTANCE OF IMPROVEMENTS

(1) After the applicant has installed all required improvements, he/she shall notify the Town Engineer in writing that the work is complete and ready for final inspection. The Town Engineer shall inspect the improvements and forward a letter to the applicant indicating his/her approval or disapproval. When the improvements have been approved by the Town Engineer, the Clerk will prepare a billing for engineering, inspection and legal fees and submit it to the applicant for payment. In addition, the applicant and all general contractors shall file lien waivers or affidavits, in a form acceptable to the Town and approved by the Town Attorney, evidencing that there are no claims, actions or demands for damages, based upon contract or tort arising out of or in any way related to the project and that no monies are owed to any surveyor, mechanic, sub-contractor, materialman or laborer.

(2) Resolution When the engineering, inspection, and legal fees have been paid and when the necessary lien waivers and affidavits have been filed and the road has been approved by the Town Engineer, a resolution accepting the project will be prepared and presented to the Town Board.

(3) Security Release The security furnished pursuant to Section 4.04(1) shall remain in full force for a period of one year after the completion of the project and acceptance by the Board unless partially released as hereinafter provided. The security shall be held to guarantee the work performed pursuant to private contracts against defects in workmanship and materials. If any defect appears during the period of the guarantee, the applicant or its contractor shall, at its expense, install replacements or perform acceptable repairs. In the event that the applicant fails to install the replacement or perform the repairs, the Town may do so and deduct the cost thereof from the security deposit. Unless defects have appeared and have not been repaired, the Town shall release the security to the applicant upon expiration of the one year guarantee period.

4.14 FEES. The applicant shall pay fees and costs associated with the application for approval of roads and streets in accordance with the attached Schedule of Fees.

4.15 OFFENSES AND PENALTIES.

(1) No residential lot served by the road may be occupied until the binder course provided for in this Ordinance has been installed and approved by the Town. The Town shall not issue any building permit for any structure served by the road until the road binder course has been completed and approved.

(2) No person may deposit, place or leave any materials, or plant vegetation, on a Town road, within the right-of-way of the road, or in the ditches of a town road, which materials obstruct the use of the road, render the surface slippery or hazardous, or which may damage persons or property. This prohibition shall include, but not be limited to: glass, garbage, mud, manure, gravel, stones, machinery, cans, or other material, but shall not include salt, sand, calcium chloride or other materials used in maintenance of Town roads.

(3) No person may plant, maintain or permit vegetation or plants on any private premises adjacent to a highway which obstructs the view of the operator of a motor vehicle approaching an intersection, or which obscures or conceals any traffic sign on a Town road. Every person shall endeavor to reasonable trim, cut and otherwise prevent vegetation or plants from obstructing visibility at intersections or of signs.

(4) No person may build or reconstruct a fence or any other structure within the thirty three feet (33') of right-of-way of a Town road, measured from the centerline of said road. Any fence which existed prior to the adoption of this ordinance may be maintained, but may not be replaced.

(5) No person may cultivate, crop, or otherwise work any land located within the right-of-way of a Town road, including the planting of trees.

(6) No person may, by operation of a motor vehicle, spillage of chemicals, operation of machinery or other action, damage a Town road.

(7) Every violation of this ordinance is declared to be a public nuisance. In addition to the penalties provided in this ordinance, the Town may abate such a nuisance. The Town shall give written notice to the landowner or person who is in violation of the ordinance giving the person a reasonable time to correct the violation. In the event the violation is not corrected, the Town may take such action within its right-of-way as is necessary to abate the nuisance, including removal of any material which is encroaching upon or obstructing the right-of-way, or trimming of vegetation which is intruding on the right-of-way. The Town may charge the responsible party for the cost of abating the nuisance, and if said charges are unpaid, assess them against the violator's property as a special charge.

(8) In addition to the other remedies herein, the Town may commence an action for injunctive relief against an alleged violator seeking to compel the violator to cease and desist from violating this Ordinance.

(9) Charges for removal of obstructions, litter, debris or material from highway. The Town's highway patrol employee may order the person or persons responsible for placing obstructions, litter, material or debris on a Town highway to remove the same. If the person responsible fails to remove the obstructions, litter, material or debris within twenty four (24) hours, the Town may remove the same. The Town may charge the responsible person or persons for the cost of the removal by sending an invoice to the last-known address of the responsible person or persons. If the responsible person or persons do not pay the charges before the 15th day of September, the unpaid charges shall be levied against the real property of the responsible person or persons as a special charge pursuant to statute, and shall be a lien against said real property pursuant to statute.

4.16 PARKING ON PAVED ROAD SURFACE PROHIBITED.

(1) Pursuant to sec. 349.13, Wis. Stats., no motor vehicle, motorcycle, or other wheeled conveyance such as, but not limited to, a trailer, may park, stop or stand on the right of way of any Town road within the Town of Black Earth.

(2) Exceptions. The prohibition of subsection (1) does not apply to:

(a) The temporary stopping or leaving of a motor vehicle where the motor vehicle has become disabled while on the highway to such an extent that it is impossible to move the motor vehicle. Section 8.6 of these Ordinances shall apply to motor vehicles left on the right of way. No vehicle of any kind shall be left on the right of way for longer than twenty-four (24) hours without the written permission of the Town Board, unless otherwise specifically permitted by these Ordinances.

(b) The stopping of a motor vehicle to avoid conflict with other traffic or to comply with traffic signs, signals or the directive of a law enforcement officer.

(c) The stopping of a vehicle of a public utility, telephone or electric cooperative where necessary to maintain, install, repair, construct or inspect service, provided that appropriate warning signs or signals are placed near the stopped vehicle.

(3) The parking restrictions adopted by the Town shall be communicated to the public by means of signs which comply with the Manual on Uniform Traffic Control Devices.

(4) Any vehicle owner or operator who violates the restrictions in subsection (1) shall forfeit an amount prescribed in the Fee Schedule, which shall be assessed by issuance of a citation.

(5) The Town may cause the removal of a vehicle parked in violation of a restriction enacted pursuant to subsec. (3), and may charge the operator or owner for the costs of the removal and storage.

4.17 MAILBOX.

(1) Commencing on the effective date of this ordinance, no person, corporation, partnership, proprietorship or other legal entity may install any mailbox on or adjacent to a Town road of the Town of Black Earth, unless the mailbox meets the standards contained in this ordinance. Existing mailboxes shall not be required to conform to these standards, but any repair or replacement of the mailbox shall result in the mailbox being reconstructed so as to comply with the standards herein. As used in this section, the terms “repair” or “maintenance” do not include painting or remounting of a mailbox.

(2) Standards.

(a) No mailbox may be constructed so that the posts or any portion of the mailbox infringes upon the shoulder or road surface of the Town. An infringement shall include an encroachment of the air space above the Town's right-of-way.

(b) Every mailbox shall be installed such that the support post is set back a minimum of 24 inches from the edge of the shoulder of the Town road.

(c) The mailbox itself shall be mounted so as to be at least 46 inches above the surface of the shoulder of the road.

(d) The front edge of the mailbox shall be aligned with the outside edge of the road's shoulder.

(e) The mailbox itself shall be constructed of appropriate material and should be of a kind which has been approved by the Postmaster General of the United States.

(3) The Town of Black Earth shall not be responsible for the cost of replacing any mailbox which is constructed in violation of the requirements of this section, regardless of whether or not the box was constructed prior to the effective date of this ordinance.

(4) Any person who constructs or installs a new mailbox in the Town of Black Earth shall comply fully with the requirements of this ordinance. In the event that an existing mailbox is repaired or maintained (other than as defined in sub. 4.17 (1)), the mailbox shall, at that time, be made a conforming mailbox.

(5) Every pre-existing mailbox in the Town of Black Earth shall be required to meet the standards contained in this ordinance ten (10) years after the effective date of this ordinance.

4.18 DRIVEWAYS

(1) The following regulations apply to construction or modification of private driveways located on lands in the Town of Black Earth, which private driveways provide access to buildings originally constructed or substantially modified after the effective date of this ordinance. Existing driveways are not required to meet the standards herein, but property owners are encouraged to bring such driveways into compliance with these standards at such time as the driveway is resurfaced, regraded, or a new driveway culvert is installed.

(2) Approval Required

(a) In this ordinance, the term “driveway” is defined as private driveway, road, field road, or other traveled way giving access from a public highway to one or more buildings located or to be constructed on adjacent lands.

(b) No person shall establish, construct, or re-route a driveway connected to a road right of way without first obtaining a Driveway Permit from the Town Board of Supervisors, or designee. Application forms and information should be obtained from the Town Clerk. Prior to consideration of the application by the Town Board or designee, the applicant shall submit to the Town Clerk a driveway construction plan which shall accurately describe the location of the proposed driveway and the specifications required by Section (3) of this ordinance for the driveway’s construction.

(c) Erosion control measures/permit may be necessary; subject to decision of the Town Board or its designee.

(3) No building permit for new residential construction will be issued until the driveway is constructed according to the specifications of this ordinance. The only exception will be the final application of gravel which may occur after heavy equipment needed for building activities will no longer be using the driveway.

(4) With approval of the Town Board or designee, the driveway permit may be issued to allow for the excavation of the site to provide for site preparation and to provide fill for the proposed driveway.

(5) An application fee as prescribed in the attached Fee Schedule shall be paid with each driveway application.

(6) The permit is valid for a period of one year and to the original owner only.

(7) GENERAL PROVISIONS, FIELD ROADS

(a) Culverts are required for all new field roads accessing Town roads or which allow ditch water to flow, unless waived by the Town Board or designee, and all costs involved are the responsibility of the property owner. A driveway permit is required from the Town Board or its designee for all field roads. Field roads are not required to meet the other standards established for driveways by this section.

(b) Landowners shall establish and use a point of access to the right-of-way in each field. If a field road access is discontinued or abandoned for more than two (2) years, the field road access shall be lost and may not be used unless a new field road access permit is granted by the Town.

(c) Field road access points shall be at least 15 feet from the extended street line at all intersections. A field road access allows access to a Town road solely for

agricultural purposes and may not be converted to residential or other uses unless the Town issues a driveway permit authorizing the modification.

(8) GENERAL PROVISIONS, CULVERTS

(a) Culverts are required for all new residential driveways, unless waived by the Town Board or designee, and all costs involved are the responsibility of the property owner.

(b) Culverts accessing agricultural lands from town roads do not require a permit from the Town Board prior to installation and all costs shall be the responsibility of the property owner.

(9) GENERAL PROVISIONS, OTHER

(a) No poured concrete, stone, brick, wood or other types of end-walls/head walls shall be constructed on the highway right of way. The highway right of way for town highways is 33 feet from the centerline of the highway.

(b) Permits to cross the County or State right of way are to be obtained from those respective highway departments and the actual driveway permit from the right of way to the building site must be obtained from the Town.

(10) SPECIFICATIONS FOR THE CONSTRUCTION OR RELOCATION OF DRIVEWAYS.

(a) No land with a grade of more than ten (10) percent shall be disturbed for the construction, establishment, reworking or improvement of a driveway.

(b) An engineer's plan showing adequate erosion control measures is required for any segment of the proposed driveway which disturbs land with a grade of more than ten (10) percent.

(c) The driveway shall be constructed with a minimum roadway of 12 feet in width and minimum shoulder of 1 foot on each side having a slope of 1 foot of vertical rise for 6 feet of horizontal distance, unless waived in writing by the Town Board.

(d) Each driveway shall have a culvert at the ditch line where the driveway meets the public road, unless a special permission is obtained from the Town Board or designee. The culvert shall be at least 18 inches in diameter and 30 feet in length, constructed of corrugated metal pipe with approved metal end walls. Gauge minimums are:

Pipe Diameter	Gauge
15 to 24 inches	16

30 to 36 inches	14
42 to 54 inches	12
60 to 72 inches	10
78 to 84 inches	8

(e) Backfill Material. Material used for backfill shall be of a quality acceptable to the Town Board or designee and shall be free from frozen lumps, wood, or other extraneous or perishable materials. The minimum cover, measured from the top of the pipe to the top of the subgrade, shall be six (6) inches.

(f) A driveway which is at least 24 feet in length shall have a maximum 5 percent grade at the point where the driveway enters onto a public road. A slight dip across the driveway shall be placed just before the culvert at the entrance to the public road to prevent debris from washing onto the public road.

(g) A driveway which is 500 feet in length or greater shall have an emergency pull off of not less than 22 feet in width and 25 feet in length. The pull off shall be installed at half the total length of the driveway for driveways of less than 1000 feet in length, and at the midpoint of each 500 foot section for driveways of 1000 feet or more in length.

(h) Curves in the driveway shall have an inside radius of not less than 36 feet.

(i) Maximum grade of the entire driveway or any given segment of the driveway shall not exceed 10 percent.

(j) Side banks shall be seeded promptly to control erosion.

(k) Once the construction of the driveway has begun, all specified erosion control measures, including retaining walls, ditching, culverts, crowning, mulching and matting shall be completed within 180 days.

(l) The driveway must have at least eight (8) inches of four (4) inch rock on the roadbed, covered with two (2) inches of 3/4 inch gravel, within the road right of way.

(m) Driveways paved with asphalt shall be not less than two and one half (2 ½) inches of asphalt after the final course.

(n) All costs of construction of said driveway, including the cost of the culverts and engineer's plan, if required, shall be paid by the property owner requesting the permit.

(o) An area twelve (12) feet each side of the centerline of the driveway and a height sufficient (not less than eighteen (18) feet) to permit the safe passage of emergency

vehicles must be clear of obstructions. In cases where such clearing would be environmentally damaging, the Town Board or designee may waive the restrictions.

(p) Concrete pavement may only come to the right of way and not to the road edge, unless a written, signed waiver has been approved by the Town Board and filed with the Clerk. The Town will not be responsible for replacement of concrete pavement when it is disturbed or removed in the course of reconstruction or repair of Town roads, or by snowplowing or other maintenance of the road by the Town.

(q) Joint driveways may be required to minimize access points on Town roads, and will not be permitted without prior review and specific approval by the Town Board of the Joint Driveway Agreement establishing the proposed joint driveway and the manner of its construction, maintenance and use. Joint driveway agreements shall be recorded against all properties served by the joint driveway, through a formal document recorded in the office of the Dane County Register of Deeds.

(r) The number of driveways to serve an individual residential or commercial property fronting on a street shall be one (1), except where deemed necessary and feasible by the Town Board or designee for reasonable and adequate service to the property, considering the safety, convenience and utility of the street, and driveways may be approved for commercial and other use areas where deemed reasonable.

(s) Any costs of relocating utilities shall be the responsibility of the property owner with approval of the Town Board or designee necessary before any utility may be relocated and the driveway installed.

(t) Any of the above requirements may be varied by the Town Board in such instances where the peculiar nature of the property or the design of the street may make the rigid adherence to the above requirements impossible or impractical.

(u) No driveway shall be closer than fifteen (15) feet to the extended street line at an intersection. At street intersection a driveway shall not provide direct ingress or egress to or from the street intersection area and shall not occupy areas of the road way deemed necessary by the Town for effective traffic control or for highway signs or signals.

(v) The Town Board designee shall perform two inspection on every driveway:

- i. once final grading is completed, prior to pouring
- ii. after the surfacing or pouring has been completed.

Twenty-four hour notice is required for inspections. Inspections are performed Monday thru Friday only.

(11) SPECIAL REQUIREMENTS FOR COMMERCIAL AND INDUSTRIAL DRIVEWAYS. The following regulations are applicable to driveways serving commercial or industrial establishments:

(a) No part of a private driveway located within the dedicated area of a public road shall, except as hereinafter provided, have a width greater than thirty (30) feet measured at right angles to the center line of said driveway, except as increased by permissible radii. In instances where the nature of the commercial or industrial activity or the physical characteristics of the land would require a driveway of greater width than herein specified, the Town Board in its discretion may permit a driveway of additional width.

(b) The angle between the center line of the driveway and the curb line or road edge shall not be less than 70 degrees.

(c) The surface shall be paved with blacktop or concrete.

(12) APPLICATION PROVISIONS. The Town, notwithstanding the construction of such driveway, reserves the right to make any changes, additions, repairs or relocations with the dedicated portion of the Town Road at any time, including relocation, reconstruction, widening and maintaining the road without compensating the owner of such private driveway for the damages or destruction of such private roadway. If repairs are necessary due to the disruption of current surfaces that may include, but are not limited to concrete, colored or imprinted, and/or blacktop the town will reserve the right to replace such surfaces with a minimum of two and one half (2 1/2) inches of blacktop or gravel.

(13) REQUIREMENTS FOR AN ENGINEER'S PLAN

(a) The Town Board or designee may require the applicant to obtain a plan prepared by a professional engineer licensed by the State of Wisconsin (hereinafter "an engineer's plan") prior to the construction or the modification of any proposed driveway. An engineer's plan is required:

- i. For a driveway or segment of a driveway whose construction requires a retaining wall or other special erosion control measure as determined by the Town Board or its authorized designee; or
- ii. When the Town Board requests a plan for reasonable cause.

(b) The engineer's plan will including the following:

- i. The precise location of the driveway or segment(s) of the driveway which require(s) an engineer's plan.
- ii. Grade of the driveway showing no segment exceeding 10 percent.
- iii. Location and structure of any retaining walls.
- iv. Location and size of any culverts.

- v. Cross section of the driveway.
- vi. Mulching, matting, or other erosion control measures.
- vii. Material and specifications plan.

(c) When an engineer's plan is required, no construction of a driveway may commence until the engineer's plan is approved by the Town Board or designee, a Town Driveway Permit is issued and, when applicable, any necessary approvals are obtained from Dane County or the State of Wisconsin.

(d) The preparation of an engineers plan does not guarantee the approval of a driveway permit application.

(14) EXISTING DRIVEWAYS AND FIELD ROADS. When washing or other conditions created by existing driveway or field roads become a potential hazard to a public road, the Town Board or designee shall notify the owner(s) of the land through which the driveway passes of such condition(s). Any property owner failing to correct such condition(s) within 30 days after notice by the Town Board or designee shall be subject to the penalties of this ordinance and shall also be liable for any costs incurred by the Town to eliminate the hazard as provided in Wisconsin Statutes.

(15) PENALTIES

(a) Should a driveway be constructed or modified in a way which violated the provisions of this ordinance, the owner(s) of the land through which the driveway passed shall pay a fine equal to 3 times the fee chargeable for the permit application, whether or not that fee has been paid. The owner(s) of the land shall also make the corrections indicated by the Town Board within a reasonable period of time determined by the Town Board. The Town Board or designee may request the Clerk to send a letter of notice to any property owner not adhering to this ordinance requesting compliance.

(b) If the owner(s) of the land through which the driveway passes do(es) not make the required corrections within the time specified, the Town Board shall determine the cost of correcting violations of the provisions of this ordinance including when necessary the return of disturbed land to its original condition. That cost shall be paid to the Town by the owner(s) of the property through which the driveway passes, as provided in Wisconsin Statutes.

4.19 ESTABLISHING SPECIAL OR SEASONAL WEIGHT LIMITS ORDINANCE

- I Authority
- II Adoption
- III Overweight Permits
- IV Penalties

SECTION I - AUTHORITY

The Town Board of the Town of Black Earth, Dane County, Wisconsin, has the specific authority under Wis. Stats. §§66.0114(1)-(3), 345.20-345.53, 349.03, 349.06, 349.16, 348.17, 348.26 & 348.27, to adopt this ordinance, as Towns have been authorized and delegated the authority to enact and enforce, in their own discretion, seasonal and special weight limits, and exceptions to those special and seasonal limits, on their own roads, pursuant to Wis. Stat. §349.16. The Board finds the following regulations to be in strict conformity with its authority and direction under Wis. Stat. §349.16, and not contrary to or inconsistent with chs. 341 to 348 and 350.

SECTION II - ADOPTION

The Town Board of the Town of Black Earth, by this ordinance, adopted on proper notice with a quorum and a majority vote of the Town Board present and voting, provides the authority for the Town to establish special or seasonal weight limits, and overweight permits, as follows:

- A. The Town Board may, from time to time, designate by Resolution special weight limits on any portion of a Town Road determined by the Board to need additional protection due to road conditions then occurring. Until the next regularly scheduled Board Meeting, the Town Chair or the Town Highway Superintendent may temporarily designate and post special weight limits on any portion of a Town Roads in need of immediate additional protection due to weakness of the roadbed, due to deterioration, climatic conditions or other special or temporary conditions, which are likely to cause serious damage in the absence of such special limitations.

- B. The following seasonal vehicle weight limit of 15 tons maximum [30,000 pounds] shall be effective for the following Town Roads:

- Blackberry Road,
- Deneen Road,
- Eissfeldt Road,
- Fesenfeld Road,
- Fosshage Road,
- Kahl Road,
- Lily Valley Road,
- Mahocker Road,
- Mickelson Road,
- Midland Road,
- Miller Farm Road,
- Misty Valley Road,
- John Wilkinson Road,
- Olson Road,
- Page Lane,

Reeve Road,
Schlough Road,
Schultz Road,
Spring Valley Road,
Sutcliffe Road,
Turkey Road,

during the period set by the Highway Superintendent, in consultation with the Town Roadman, annually, to coincide with the Wisconsin Department of Transportation spring thaw determinations for the year in question, and, reported to the Board at the first scheduled Board meeting following the posting.

- C. The reduced seasonal weight limit set under Section II B. above does not apply to:
- (1) **Septic Haulers** complying with Wis. Stat. §349.16(3), which are traveling to destinations where they will be emptying holding tanks which are full or otherwise endanger public health and safety. This exception does not apply if pumping of a tank can safely be deferred until after the expiration of this seasonal limit;
 - (2) **Empty Vehicle Or Vehicle Combinations** being moved directly to or from a storage or maintenance facility located on a posted town road;
 - (3) **Farm Tractor Hauling A Single Or Tandem Axle Manure Trailer** operated under and complying with a permit allowing a weight limit, excluding the tractor, of 15,000 pounds per axle for up to two axles, for operations from a farm for spreading; and,
 - (4) **Milk Haulers** which are picking up and transporting milk from dairy farms. Milk haulers shall use the shortest lawful direct route over town roads to and from dairies, and shall have the vehicle tag axle fully deployed, or this exemption does not apply.
- D. Town vehicles engaged in official duties, public safety vehicles, fuel trucks, school buses and garbage and recycling trucks contracted by the Town, shall be exempt from the seasonal and special weight restrictions of this Ordinance.
- E. Unless otherwise exempt, delivery of heavy loads to their ultimate destination shall be delayed until after the expiration of the weight limits unless delivery of the load is necessary for health or safety or the care of farm animals, for which a permit may be issued.
- F. The Town Chair, Highway Superintendent or his or her designee shall erect signs as required under s. 349.16(2), Wis. Stats., on or before the effective date of this ordinance.

SECTION III – OVERWEIGHT PERMITS

The Town of Black Earth, Dane County, Wisconsin, may authorize and issue to the owner or operator of specific vehicle, an overweight permit, exempting such Permittee from the special or seasonal Town weight limits as follows:

- A. The Town Chair or Highway Superintendent of the Town of Black Earth, Dane County, Wisconsin, for good cause in specified instances, (*with approval from the Town Board in the case of Multiple trip permits*) may authorize and issue to the owner or operator of specific vehicle, an overweight permit, effective for a designated period of time, up to one year, exempting operations by the described vehicle on designated Town Roads from special or seasonal weight limits. Such permits may include such conditions as may be deemed necessary to protect and preserve the highway, including the designation of permit routes.
- B. Any overweight permit, as issued, applies only to the vehicle designated in the permit, during operations as permitted. The permit, as issued, is not transferable, is revocable, and may be suspended by the Town Chair or Highway Superintendent at any time for good cause. The Permittee may, within 5 days of revocation or suspension, request in writing a hearing before the Town Board, which shall be held within 30 days or the permit shall automatically be reinstated.
- C. There is no application fee for overweight permits exceeding Town imposed weight limits, which may be issued by fax or electronic transmission.
- D. Permittee shall have a current, fully executed **Permit Application and Indemnification Form**, on file with the Town Clerk. The **Permit Application and Indemnification Form** shall provide the identity and address of the applicant, contact information, the name of the applicable liability insurance provider, the effective dates requested, the type of permit requested, the proposed routes of operation, and a description of the vehicle or vehicles to be permitted. It shall also provide that Permittee agrees to reimburse, indemnify and hold harmless the Town for the repair of any damage which results from Permittee's operations under the permit requested, or any liability alleged to have resulting from such damage, together with any costs of enforcing or fulfilling this paragraph, including expert witness and attorneys fees.
- E. To be valid, an overweight permit must be carried in the vehicle and displayed to any law enforcement officer, the Town Highway Superintendent, or the Town Roadman, promptly upon request.
- F. The issuance of a permit under this section shall be reported to the Town Board at the first regular meeting following issuance.
- G. Permits issued under this section are applicable solely to Town special and seasonal weight limits, and do not authorize or allow overweight operations in excess of the limits in Wis. Stat. §348.15.

SECTION IV – PENALTIES

- A. No person may operate any vehicle on the above-noted highways, in violation of a posted seasonal or special weight limit, without a written permit issued and carried in the vehicle, pursuant to SECTION III, above.
- B. The forfeiture for a first violation of any provision of this ordinance shall be Five Hundred (\$500.00) Dollars. The forfeiture for a second or subsequent offense shall be One Thousand (\$1,000.00) Dollars. Notwithstanding the forgoing, the total forfeiture shall not exceed the total forfeiture for equally overweight vehicle, with the same history of convictions, as calculated under the formulas included in Wis. Stat §348.21.
- C. Pursuant to Wis. Stat. §§ 345.47, the Town, shall recover as costs of the action under Wis. Stat. §§814.01 and 814.036, its actual reasonable expert witness and attorneys fees.
- D. The vehicle need not be physically weighed, nor must the precise weight of the vehicle be shown, to prove a violation of this Ordinance, provided there is clear and convincing circumstantial evidence a violation existed. The manufacturer’s published empty weight of a vehicle shall be presumed to be the empty weight of a vehicle, in the absence of evidence to the contrary.
- E. If any section, clause, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remaining provisions shall not be affected or the charge may be amended to a violation of Wis. Chapter 348.

SECTION V – EFFECTIVE DATE

This ordinance is effective on November 8, 2012

Dated this day of November 8, 2012

Posted November 8, 2012

Published November 15, 2012

Attest: _____
Barb Parrell, Clerk

Ken Olson, Chairman

Don Ripp, Supervisor

Tom Schlick, Supervisor