

# Chapter 38

## STREETS, SIDEWALKS AND OTHER PUBLIC PLACES<sup>1</sup>

<i><b>Section Number</b></i>	<i><b>Title</b></i>	<i><b>Ordinance Number</b></i>	<i><b>Date of Ordinance</b></i>
<b>Article I. In General</b>			
Sec. 38-1.	Penalty.		
Secs. 38-2. – 38-30.	Reserved.		
<b>Article II. Streets</b>			
Division 1. Generally			
Sec. 38-31.	Sale of abutting lands.		
Secs. 38-32 – 38-50.	Reserved.		
Division 2. Standards			
Sec. 38-51.	Acceptance of highways in subdivisions.		
Sec. 38-52.	Acceptance of highways other than in subdivisions.		
Sec. 38-53.	Highway design standards.		
Sec. 38-54.	Survey required.		
Sec. 38-55.	Right-of-way width.		
Sec. 38-56.	Cross sections.		
Sec. 38-57.	Plans.		
Sec. 38-58.	Inspection.		
Sec. 38-59.	Specifications.		
Sec. 38-60.	Use.		
Sec. 38-61.	Notification.		
Sec. 38-62.	Inspection.		
Sec. 38-63.	Costs.		
Sec. 38-64.	Performance bond may be required.		
Sec. 38-65.	County and state specifications.		
Secs. 38-66 – 38-80.	Reserved.		
Division 3. Excavations			
Sec. 38-81.	Permit required.		

---

<sup>1</sup> **Cross reference**— Any ordinance dedicating, establishing, naming, locating, relocating, opening, paving, widening, repairing or vacating any street or public way or public grounds and parks and other public places saved from repeal, § 1-9(6); any ordinance levying or imposing taxes or special assessments saved from repeal, § 1-9(8); any ordinance establishing and prescribing the street grades of any street curb or bulkhead lines or width of sidewalks or streets saved from repeal, § 1-9(11); any ordinance providing for local improvements and assessments for such improvements saved from repeal, § 1-9(12); any ordinance regarding lighting of streets, sidewalks and alleys, water, sewer and electric main and line construction or municipal utility regulations or construction of public works saved from repeal, § 1-9(20); buildings and building regulations, ch. 10; moving buildings, § 10-291 et seq.; peddlers, canvassers, solicitors and transient merchants, § 14-171 et seq.; mobile homes and mobile home parks, § 14-301 et seq.; environment, ch. 22; land division, ch. 28; required improvements for streets in subdivisions, § 28-43; design standards for streets in subdivisions, § 28-81; obstructing streets and sidewalks prohibited, § 30-91; traffic and vehicles, ch. 50; utilities, ch. 54.

Sec. 38-82.	Fee and bond required.	06-2015	07/13/15
Sec. 38-83.	Excavations.		
Secs. 38-84. – 38-110.	Reserved.		

**Article III. Driveways and Culverts**

Sec. 38-111.	Permit required.	04-2014	06/09/14
Sec. 38-112.	Construction required.	04-2014	06/09/14
Sec. 38-113.	Improperly installed culvert.	04-2014	06/09/14
Sec. 38-114.	Obstructions of ditches.	04-2014	06/09/14
Secs. 38-115.– 38-140.	Reserved.		

**Article IV. Numbering of Property**

Sec. 38-141.	Uniform numbering system.
Sec. 38-142.	Assignment of numbers.
Sec. 38-143.	Administration.
Secs. 38-144.–38-170.	Reserved.

**Article V. Ponds**

Division 1. Generally

Secs. 38-171.- 38-190.	Reserved.
------------------------	-----------

Division 2. Permit

Sec. 38-191.	Required.
Sec. 38-192.	Exceptions.
Sec. 38-193.	Site plan required.
Sec. 38-194.	Engineering report.
Sec. 38-195.	Conditions to permit.
Sec. 38-196.	Additional permits.
Sec. 38-197.	Permit fee.
Sec. 38-198.	Variance/waiver
Secs. 38-199. – 38-220.	Reserved.

Division 3. Standards for Construction

Sec. 38-221.	Technical requirements.
Sec. 38-222.	Excavated material.
Sec. 38-223.	Rezoning.
Sec. 38-224.	Penalty.
Secs. 38-225. – 38-250.	Reserved.

**Article VI. Special Assessments**

Sec. 38-251.	Purpose.
Sec. 38-252.	Resolution required.
Sec. 38-253.	Application of state statutes.
Sec. 38-254.	Notice of hearing.
Sec. 38-255.	Lien against assessed property.
Sec. 38-256.	Appeal.

## **Article I. In General**

### **Sec. 38-1. Penalty.**

Any person who violates any provision of this chapter, or any order, rule or regulation made under this chapter, or any order, rule or regulation made under this chapter, upon conviction thereof, shall be subject to a penalty as provided in section 1-14.

(Code 1982, § 8.15)

### **Secs. 38-2—38-30. Reserved.**

## **Article II. Streets <sup>[2]</sup>**

State Law reference— Town highways, Wis. Stat. chs. 80, 81, 86.

### **Division 1. Generally**

#### **Sec. 38-31. Sale of abutting lands.**

No owner of any land abutting upon any road accepted by the town board under this chapter and no owner of any land abutting upon any road accepted as a part of a subdivision pursuant to this chapter shall offer for sale any of such land unless such proposed road or highway within such area has been constructed according to the terms and provisions of this chapter. The town board may waive compliance with this section upon the filing of a surety bond as provided in section 38-64. (Code 1982, § 8.05)

#### **Secs. 38-32 - 38-50. Reserved.**

### **Division 2. Standards**

#### **Sec. 38-51. Acceptance of highways in subdivisions.**

No plat of any subdivision shall be accepted by the town pursuant to Wis. Stat. ch. 236 unless such plat shall provide that all roads and highways shown thereon shall be at least 66 feet in width.

(Code 1982, § 8.01)

#### **Sec. 38-52. Acceptance of highways other than in subdivisions.**

No road or highways not a part of a subdivision shall be accepted by the town as a town road unless such road or highway is 66 feet in width.

(Code 1982, § 8.02)

**Sec. 38-53. Highway design standards.**

Prior to the acceptance of the subdivision plat as described in section 38-51, and prior to the acceptance of a town road as described in section 38-52, the subdivider or other dedicator, as the case may be, shall enter into a contract with the town that the roads and highways shall be constructed in accordance with the specifications in this division.

(Code 1982, § 8.03)

**Sec. 38-54. Survey required.**

The subdivider or petitioner shall furnish the town with a survey by a licensed surveyor, showing the centerline, right-of-way lines, section lines, section corner monuments and any encroachments within the right-of-way for the proposed highway.

(Code 1982, § 8.03(1))

**Sec. 38-55. Right-of-way width.**

The minimum right-of-way width for a local street shall be 66 feet and the minimum right-of-way width for a collector street shall be 80 feet.

(Code 1982, § 8.03(2))

**Sec. 38-56. Cross sections.**

The following sections are typical cross sections required for the town. The use of a particular section shall be determined by the town board prior to the preparation of the plans. An illustration showing each section is on file with the clerk-treasurer and is incorporated in this section by reference.

- (1) *Rural section.* The following are required for a rural section:
  - a. Local street: 66 feet right-of-way. Typical section R-1.
  - b. Commercial/industrial street: 80 feet right-of-way. Typical section R-2.
- (2) *Urban section.* The following are required for an urban section:
  - a. Local street: 66 feet right-of-way. Typical section U-1.
  - b. Commercial/industrial street: 80 feet right-of-way. Typical section U-2.

(Code 1982, § 8.03(3))

**Sec. 38-57. Plans.**

The subdivider or petitioner shall submit two sets of plans for the proposed road construction to the town for review for conformance with the town standards. The plans shall include a plat of

such street showing legal descriptions of the road rights-of-way and of all drainage easements, together with documents for recording of such plans.

(Code 1982, § 8.03(4))

### **Sec. 38-58. Inspection.**

Upon completion of final subgrade work and prior to the placement of crushed aggregate base material, the roadway will be inspected by the town for conformance to the proposed grades.

(Code 1982, § 8.03(5))

### **Sec. 38-59. Specifications.**

Any town road constructed in the town shall conform to one of the typical sections referred to in section 38-56 and in accord with the following minimum specifications:

- (1) The type of roadway shall be determined by the type of drainage facilities available. Where the town board determines that there are storm sewer facilities available or are to be made available, the roadway section shall incorporate a curb and gutter section conforming to the typical sections. If storm sewer facilities are not available, the rural roadway section may be utilized.
- (2) The crushed aggregate base course will vary in width in conformance with the typical section utilized and will conform to the following depth requirements. The base course for the local street sections shall be ten inches of crushed stone (six inches of #2 (one-half-inch) and four inches of three-quarter-inch T.B.). Crushed stone shall have 85 percent to 100 percent fractured faces on the material to be furnished. Such stone shall be of a quality at least equal to the quality of stone used on streets maintained by the town. The grade of crushed stone shall be approved by the town prior to application.
- (3) Concrete curb and gutter utilized in the residential sections shall conform to the typical section for a four-inch mountable curb and gutter. In the commercial and industrial street sections, the curb and gutter shall conform to the 30 inches Type D standard curb and gutter section. The concrete curb and gutter shall not be placed sooner than nine months nor later than three years after construction of the base course. Prior to construction of the curb and gutter, approval shall be obtained from the town. Whenever the construction of curb and gutter is required, the subdivider or petitioner shall furnish a document or surety bond sufficient to ensure that he will comply with such construction within such time period as provided in this subsection without expense to the town.
- (4) In areas where the rural section is incorporated, the drainage ditches on each side shall have a maximum of 3:1 side slopes and a depth sufficient to provide adequate drainage. Drainage ditches shall not be less than two feet two inches in depth below the finished grade of the centerline of the street. The bottom of the drainage ditch, where deemed necessary by the town board, shall be sodded with sod acceptable to the town and in such manner that any and all erosion will be eliminated. Sod used shall measure 18 inches by 72 inches, and the distance of

laying the sod shall be determined by the town. Sod shall be laid at both ends of all culverts unless otherwise stated.

- (5) Culverts of sufficient length and diameter to provide adequate drainage and access shall be placed at all driveway entrances. These culverts are subject to approval by the town prior to installation.
- (6) A cul-de-sac with a minimum right-of-way radius of 75 feet or a turnaround "T" with a minimum roadway length of 66 feet and minimum width of 20 feet shall be constructed to the specifications in this section and shall be provided on all dead-end streets and roads greater than one lot or 200 feet in length.
- (7) The slopes of the ditches and/or terrace areas within the right-of-way shall be dressed with a minimum of four inches of topsoil and seeded with Seed Mixture No. 1 of Section 630.2.1.5.1.1 of the State of Wisconsin Department of Transportation Standard Specifications for Highway and Structure Construction, 1996 Edition, as amended by Supplemental Specifications, 2000 Edition. Such seeding shall be completed prior to the acceptance of the base course. Following construction of curb and gutter, all disturbed areas shall be restored to the satisfaction of the town board.
- (8) All culverts crossing rural streets shall be at least 44 feet in length and of such diameter as prescribed by the town. Any culverts needed for entrance to any town road shall be of sufficient length and diameter as prescribed by the town.
- (9) All black dirt and other topsoil shall be removed from under the roadway and curb areas.
- (10) No crushed stone shall be allowed to be laid on frozen ground or ground which has too high of water content, all in accordance with the approval of the town.
- (11) All road work shall conform to the State of Wisconsin Department of Transportation Standard Specifications for Highway and Structure Construction, 1996 Edition, as amended by Supplemental Specifications, 2000 Edition.

(Code 1982, § 8.03(6))

### **Sec. 38-60. Use.**

The use of land included in the development adjacent to curves and intersections of such roads shall be restricted by appropriate easements of sufficient width and length for adequate vision along such roads.

(Code 1982, § 8.03(7))

### **Sec. 38-61. Notification.**

The town shall be notified before:

- (1) Culverts are ready to be installed.

- (2) Rough and finished grading has been completed.
- (3) Crushed stone is applied.
- (4) Construction of curb and gutter.

(Code 1982, § 8.03(8))

**Sec. 38-62. Inspection.**

The town shall make one inspection after the required amount of stone has been placed and shall provide full-time inspection for curb and gutter construction.

(Code 1982, § 8.03(9))

**Sec. 38-63. Costs.**

All costs incurred by the town for legal, engineering and administration expenses, including, but not limited to, review and inspection, shall be the liability of the subdivider or petitioner.

(Code 1982, § 8.03(10))

**Sec. 38-64. Performance bond may be required.**

The town board, as a condition precedent to the acceptance of a subdivision and roads, may require the subdivider or petitioner to file a performance bond with the clerk-treasurer guaranteeing compliance with the terms and conditions of the contract specified in this division. Such bond shall be approved by the town board.

(Code 1982, § 8.04)

**Sec. 38-65. County and state specifications.**

All roads and approaches adjoining county and state roads shall be required to meet county and state specifications.

(Code 1982, § 8.06)

**Secs. 38-66 - 38-80. Reserved.**

**Division 3. Excavations**

**Sec. 38-81. Permit required.**

No opening shall be made in any town road or highway until a permit therefor has been applied for and issued by the town board. Applications for permits shall contain a description of the property involved, the location of such opening and the purpose for which the opening will be

made. Such application shall be signed by the owner, unless the work is not to be done by the owner in person, in which case the person engaged to perform the work shall sign the application and the permit shall be issued in his name.  
(Code 1982, § 8.09(1))

**Sec. 38-82. Fee and bond required.**

No permit shall be issued under this section unless the applicant therefor pays a fee as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution and files a cash or surety bond with the building inspector in the principal sum as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution in the case of openings to service residential buildings and as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution in the case of openings to service commercial, industrial or institutional buildings to guarantee the filling of trenches and the proper restoration of the highway. The completion work shall be done by the applicant and finished within 24 hours following completion of the job or notice by the building inspector, whichever is sooner. If not so completed, the work shall be completed by order of the town board upon notice by the building inspector and the bond filed by the applicant shall be applied against the costs thereof. If the bond is inadequate therefor, the applicant shall be liable for any deficiency.  
(Code 1982, § 8.09(2))

**Sec. 38-83. Excavations.**

In the opening of any public highway all paving and excavated material shall be removed with the least possible damage to the surrounding area and so placed as not to interfere with traffic or drainage. Such openings shall be closed with barricades and lanterns or flares shall be maintained upon the location during hours of darkness. In the case of highways paved with black top or concrete, all excavated materials shall be removed from the site and holes or trenches shall be backfilled with approved sand or gravel fill material to within 12 inches of the surface grade of the highway. The remaining hole shall be backfilled with three-quarter-inch traffic bond stone, solidly packed into place, to the level of the asphalt or concrete layer, then three inches of asphalt or nine inches of concrete, as the case may be. As soon as practicable, the opening shall be repaved in conformity with surrounding pavement. All holes or trenches made in gravel highways shall be backfilled with the gravel or comparable material and thoroughly compacted. All curbing shall be fully restored or replaced in the event of cutting or damage by driving over the curbing with vehicles. If curbing are damaged, it shall be presumed that the damage was due to actions of the applicant, its suppliers or contractors, unless proven otherwise to the satisfaction of the town board.  
(Code 1982, § 8.09(3))

**Secs. 38-84 - 38-110. Reserved.**



## **Article III. Driveways And Culverts**

### **Sec. 38-111. Permit required.**

No person shall install or make any improvement of a private driveway extending into a public right-of-way without a permit from the town building inspector. The town building inspector shall issue the permit upon a complete application and the payment of a fee set by resolution of the town board from time-to-time subject to the following terms and conditions:

- (1) The culvert shall be of such size as required for proper drainage along the right-of-way, but not less than 15 inches by 24 feet, and installed with end walls and animal guards.
- (2) The property owner or permittee will not construct any abutment above the existing road grade at the ends of the culvert underlying the driveway. At a distance of eight feet from the edge of the pavement, the finished grade of the driveway shall be at least four inches below the grade of the edge of the adjacent highway.
- (3) The cost of any and all repairs to driveways extending into public rights-of-way, including, but not limited to, the moving of existing culverts, maintenance and the covering with gravel, shall be borne by the property owner or permittee, unless such repairs were necessitated by the reconstruction of any portion of the public right-of-way by the town.
- (4) Any drainage ditch and public right-of-way affected by the construction of a driveway entrance shall be reconstructed to the original shape, grade and contour of such ditch and right-of-way at the expense of the property owner or permittee.

(Code 1982, § 8.07(1))

### **Sec. 38-112. Construction required.**

No building permit shall be issued by the town building inspector unless a permanent driveway has been constructed from the right-of-way to and on the site upon which construction is to take place. Unless waived by the town board, no driveway shall be deemed permanent unless a culvert of required strength and dimension has been laid under such driveway and has been covered with sufficient gravel to bring it to the same grade as the public right-of-way adjacent thereto. The property owner or permittee shall comply with all regulations relating to the construction or reconstruction of private driveways in section 38-111.

### **Sec. 38-113. Improperly installed culvert.**

If a culvert is not properly installed by the property owner, his agent, employee or contractor, the town shall have the right to remove, reset or replace the culvert at the owner's cost. Prior to removal, resetting or replacement, the town shall notify the property owner in writing of any defect as to such culvert and shall order the owner to correct any defect within such period of

time as the town board shall specify, but not less than 30 days. If the property owner requests a hearing before the town with respect to the order, the order shall be stayed until after such hearing. The town shall promptly bill the property owner for the costs of removal, resetting or replacement. If such bill is not paid, the bill shall be carried onto the tax rolls and collected like other taxes.

#### **Sec. 38-114. Obstructions of ditches.**

No person shall fill or obstruct any ditch or culvert alongside any town or public road or underneath any such road with any dirt or debris. No person shall cultivate, plow or remove soil from his land in such manner as to obstruct or fill any ditch along any town road or public highway.

#### **Secs. 38-115 - 38-140. Reserved.**

### **Article IV. Numbering Of Property**

#### **Sec. 38-141. Uniform numbering system.**

A uniform system of numbering properties and principal buildings as shown on the map identified by the title "Street and House Numbering System—Town of Yorkville" which is filed in the office of the clerk-treasurer is adopted for use in the town. This map and all explanatory matter thereon is adopted and made part of this Code.

(Code 1982, § 8.10(1))

#### **Sec. 38-142. Assignment of numbers.**

- (a) All properties or parcels of land within the boundaries of the town shall be identified by reference to the uniform numbering system adopted in this article.
- (b) A separate number shall be assigned for each 20 feet of frontage.
- (c) All properties on the east side of north-south streets and all properties on the south side of east-west streets shall be assigned odd numbers. All properties on the west side of north-south streets and all properties on the north side of east-west streets shall be assigned even numbers.
- (d) Each principal building shall bear the number assigned to the frontage on which the front entrance is located. In case a principal building is occupied by more than one business or family dwelling unit, each separate front entrance of such principal building shall bear a separate number.
- (e) Numerals indicating the official numbers for each principal building or each front entrance to such building shall be posted in a manner as to be visible from the street on which the

property is located. Such numerals may be obtained at cost from the clerk-treasurer, as provided in section 38-143.

(Code 1982, § 8.10(2))

**Sec. 38-143. Administration.**

- (a) The clerk-treasurer shall be responsible for maintaining the numbering system. In the performance of this responsibility he shall be guided by the provisions of section 38-142.
- (b) The clerk-treasurer shall keep a record of all numbers assigned under this article.
- (c) The clerk-treasurer shall issue to any property owner in the town upon request and at cost a set of numerals for each principal building or separate front entrance to such building. In doing so, he shall issue only numerals for the number assigned to such building under the provisions of this article. Provided, however, that the clerk-treasurer may issue additional numerals in accord with the official numbering system whenever a property has been subdivided, a new front entrance opened or undue hardship has been worked on any property owner.

(Code 1982, § 8.10(3))

**Secs. 38-144 - 38-170. Reserved.**

**Article V. Ponds**

Editor's note— Section 1 of Ord. No. 2006-05, adopted Aug. 14, 2006, amended art. V, which consisted of §§ 38-171—38-250, in its entirety to read as herein set out. Former art. V, pertained to similar subject matter and derived from §§ 8.11 and 8.12 of the 1982 Code.

**Division 1. Generally**

**Secs. 38-171 - 38-190. Reserved.**

**Division 2. Permit**

**Sec. 38-191. Required.**

No person shall construct or make improvements to any pond located within the town without first obtaining a permit from the town board. Except as set forth in this article, the provisions of this article apply to all ponds including, but not limited to, those ponds utilized for drainage, recreation, aesthetics, sediment control, and fish management.

(Ord. No. 2006-05, § 1, 8-14-2006)

### **Sec. 38-192. Exceptions.**

The following ponds are excluded from the provisions of this article: Ponds used primarily for ornamental, decorative or waterfowl purposes (e.g., fountains, reflection pools, koi ponds, wildlife scrapes, etc.) with a depth of less than 24 inches, a diameter less than 25 feet or an area less than 500 square feet, stormwater drainage ponds created by or for a town drainage utility district, and ponds which have been previously reviewed and approved as part of an erosion control plan. Existing ponds are also excluded from the provisions of this article, but any enlargement, dredging or modification to such ponds makes them subject to this article.

(Ord. No. 2006-05, § 1, 8-14-2006)

### **Sec. 38-193. Site plan required.**

Before a permit may be issued, the applicant shall provide the town with a detailed site plan of the proposed pond excavation showing cross-section, depth, area and location of the pond as well as addressing disposition and storage of spoils from the excavation. The plan shall be drawn at a scale of not less than one inch equals 100 feet using the National Geodetic Vertical datum (NGVD) of 1929 for elevations and a bearings base of grid north of the Wisconsin coordinate system, South Zone. Racine County topographic maps may be used for undeveloped or minimally disturbed areas. Areas that have been developed or where substantial disturbance to the original grade has been made will require a survey. The plan shall contain measures to protect against overflow and shall address drainage into and surrounding the pond area. The plan shall detail the flow of drainage in the event of overflow and demonstrate that adjacent properties will be adequately protected in the event of overflow or from new or altered runoff patterns created by relocated excavation materials. A restoration plan for the excavation is also required. Additional information shall be supplied to the town, as requested by the town engineer.

(Ord. No. 2006-05, § 1, 8-14-2006)

### **Sec. 38-194. Engineering report.**

At the discretion of the town board, an engineering report may be required. The engineering report shall be submitted to the town at the applicant's expense.

(Ord. No. 2006-05, § 1, 8-14-2006)

### **Sec. 38-195. Conditions to permit.**

The town board may attach conditions to the issuance of a pond permit to address such things (without limitation) as maintenance, weed control, depth of pond, landscaping and aesthetics, and measures to secure the pond to avoid personal injury to trespassers. Temporary seeding and/or silt fencing may be required by the town engineer for partially completed projects. Other conditions appropriate to the area under consideration may be added to the permit by the town board, after consultation with the town engineer.

(Ord. No. 2006-05, § 1, 8-14-2006)

**Sec. 38-196. Additional permits.**

Before proceeding with excavation, the applicant, in addition to obtaining a permit from the town, must secure all necessary permits from pertinent county, state and federal government agencies. It is the applicant's responsibility to verify that any potential environmental features such as wetlands, flood plain, navigable waterways, environmental corridors, etc, are identified and all necessary permits relating thereto are obtained.

(Ord. No. 2006-05, § 1, 8-14-2006)

**Sec. 38-197. Permit fee.**

At the time the application is filed, the applicant shall pay fees as set forth in the schedule of fees on file in the town clerk's office and may be revised by town board resolution. In addition, the applicant shall reimburse the town for engineering, planning legal and administrative expenses incurred in processing, reviewing, revising, and approving the permit and site plan, where those expenses exceed the amount of the permit fee.

(Ord. No. 2006-05, § 1, 8-14-2006; Ord. No. 2008-01, § 21, 12-22-2008)

**Sec. 38-198. Variance/waiver.**

The town board may waive or grant a partial variance from any requirement or prohibition created by this article if the Board specifically determines that the permittee's special circumstances make such a waiver or variance appropriate.

(Ord. No. 2006-05, § 1, 8-14-2006)

**Secs. 38-199 - 38-220. Reserved.**

**Division 3. Standards For Construction**

**Sec. 38-221. Technical requirements.**

Side slopes of ponds shall not exceed a 4:1 ratio. The boundaries of the pond, as shown on the approved site plan, shall be set back a minimum of 50 feet from all property lines. The town engineer may require safety ledges, where appropriate, in accordance with the specifications set forth below. All ponds shall have a minimum depth of five feet. In addition, ponds shall be constructed in conformance with the standards of the Soil Conservation Service Technical Guide and, where applicable, the Wet Detention Basin of the Wisconsin Department of Natural Resources Conservation Practice Standard, copies of which are available through the town engineer, as well as other applicable provisions of Wis. Admin. Code NR 151 (Runoff Management) and NR 333 (Dam Design and Construction). The town engineer may require the applicant to submit an engineering analysis certifying the structural adequacy of the proposed pond.

(Ord. No. 2006-05, § 1, 8-14-2006)

### **Sec. 38-222. Excavated material.**

All excavated material shall remain on-site and shall be integrated into the restoration of the pond area.

(Ord. No. 2006-05, § 1, 8-14-2006)

### **Sec. 38-223. Rezoning.**

If the excavated material from the project site is sold, given away, or is otherwise removed from the site in a manner in which the principal use appears to be soil removal, and pond construction appears to be a secondary result, the parcel shall be rezoned to M-4 quarrying district and a mineral extraction conditional use permit shall be obtained prior to any excavation or grading on the parcel.

(Ord. No. 2006-05, § 1, 8-14-2006)

### **Sec. 38-224. Penalty.**

- (1) *Forfeiture.* Any person who violates any provision of this chapter or who shall construct or make improvements to any pond located within the Town of Yorkville without first obtaining a permit as required herein shall, upon conviction thereof, forfeit not less than \$50.00 nor more than \$500.00 together with the cost of prosecution. Further, each such day of continued violation of the provisions of this chapter shall be considered a separate offense.
- (2) *Injunction.* In case any premises are used in violation of this chapter, an action in the name of the town may be instituted to enjoin such violation or intended violation, and this remedy shall be in addition to other remedies set forth in this section.
- (3) *Abatement.*
  - (a) *Notice to owner.* In the event that any person shall construct or make improvements to any pond located within the Town of Yorkville without first obtaining a permit as required herein or who shall construct or make improvements to any pond located within the Town of Yorkville contrary to this chapter, the town may serve notice on the person causing, permitting or maintaining such a violation and upon the owner or the occupant of the premises on which such a violation is caused, permitted or maintained and to post a copy of said notice on the premises. Such notice shall direct that the person causing, permitting or maintaining such a violation or the owner or the occupant of the premises to abate or remove each such violation or to obtain the necessary permits required hereby within seven days from the date of posting and shall state that unless such action is taken, that the town will cause the same to be abated, removed or otherwise brought into compliance and will charge the costs thereof to the owner, occupant or person causing, permitting or maintaining the violation, as the case may be. The notice shall also inform the owner, occupant, or person causing, permitting, or maintaining the violation of the right to have the

determination of the town reviewed in accordance with chapter 2, article VII of the town's Code of Ordinances.

- (b) *Abatement or restoration by the town.* If the action required by the notice issued pursuant to this section is not taken within the time provided or if the owner, occupant or person causing, permitting or maintaining the violation cannot be found, the town shall cause the abatement or removal of such violation, and if necessary to bring the premises into compliance, the town shall take action to restore the property to a state consistent with the condition of the property prior to the construction of the pond or the improvements made to the pond which were made in violation of the chapter.
- (c) *Cost of abatement or restoration.* In addition to any other penalty imposed for this section, the cost of abating a violation of the chapter by the town shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the violation, and if notice to abate and/or remedy the violation has been given to the owner, such costs shall be assessed against the real estate as a special charge.

(Ord. No. 2006-05, § 1, 8-14-2006)

**Secs. 38-225 - 38-250. Reserved.**

## **Article VI. Special Assessments <sup>[4]</sup>**

State Law reference— Special assessments, Wis. Stat. § 66.0701 et seq. (Code 1982, § 25.10)

### **Sec. 38-251. Purpose.**

In addition to other methods provided by law, special assessments for any public work or improvement or any current service may be levied in accordance with the provisions of this article.

(Code 1982, § 8.12(1))

### **Sec. 38-252. Resolution required.**

Whenever the town board shall determine that any public work or improvement or any current service shall be financed in whole or in part by special assessments levied under this article, the town board shall adopt a resolution specifying this intention and the time, either before or after completion of the work or improvement, when the amount of the assessment will be determined and levied, the number of annual installments, if any, in which assessments may be paid, the rate of interest to be charged on the unpaid balance and the terms on which any of the assessments may be deferred while no use of the improvement is made in connection with the property.

(Code 1982, § 8.12(2))

**Sec. 38-253. Application of state statutes.**

The provisions of Wis. Stat. §§ 66.0703 and 66.0721 shall apply to special assessments levied under this article except that, when the town board determines by resolution that the hearing on the assessments be held subsequent to the completion of the work or improvement or the rendering of the service, the report required by Wis. Stat. § 66.0703(5) shall contain a statement of the final cost of the work, service or improvement in lieu of an estimate of the cost.  
(Code 1982, § 8.12(3))

**Sec. 38-254. Notice of hearing.**

Notice of the time and place of the public hearing on any special assessment proposed to be levied and notice of the final assessment and terms of payment thereof shall be given in the manner prescribed by Wis. Stat. § 66.0703(7) and (8)(d).  
(Code 1982, § 8.12(4))

**Sec. 38-255. Lien against assessed property.**

Any special assessment levied under this article shall be a lien against the property assessed from the date of the final resolution of the town board determining the amount of the levy.  
(Code 1982, § 8.12(5))

**Sec. 38-256. Appeal.**

Any person against whose property a special assessment is levied under this article may appeal therefrom in the manner prescribed by Wis. Stat. § 66.0703(12), within 40 days of the date of the final determination of the town board.  
(Code 1982, § 8.12(6))