

Municipal LAW

& LITIGATION GROUP

DALE W. ARENZ (1935-2022)
DONALD S. MOLTER, JR. (Retired)
JOHN P. MACY
H. STANLEY RIFFLE (Court Commissioner)
ERIC J. LARSON
REMZY D. BITAR

730 N. GRAND AVENUE
WAUKESHA, WISCONSIN 53186
Telephone (262) 548-1340
Facsimile (262) 548-9211
Email: elarson@ammr.net

PAUL E. ALEXY
MATTEO REGINATO
LUKE A. MARTELL
SAMANTHA R. SCHMID
CHRISTOPHER R. SCHULTZ
LUCAS C. LOGIC
GREGORY M. PROCOPIO
BENJAMIN T. CROCKETT
ADAM J. MEYERS
SAVANNA M. GAIN

STEPHEN J. CENTINARIO, JR.
MICHAEL J. MORSE
JAMES P. WALSH

Guide for Setting Speed Limits on Town Roads

November 20, 2024

This Guide has been prepared at the direction of the Dane County Towns Association (DCTA). The purpose of this Guide is to briefly identify the legal authority for a town to modify speed limits on town roads, per applicable State laws. This Guide is not intended to be comprehensive. Questions about establishing speed limits on town roads in any particular case may require legal advice from your town attorney. The applicable laws are as follows, beginning with the fixed limits created by law, and then modifications to the fixed limits:

I. Fixed Limits

Before considering changes to speed limits, you need to know the applicable statutory limits for the road in question (known as “fixed limits”).¹ The fixed limits that apply per State law are as follows:

- a. Default is 55 mph. In the absence of another applicable limit, State law establishes the fixed speed limit for all town roads as 55 mph.²
- b. 15 mph for certain zones. The fixed limit for properly signed school zones, school crossings, safety zones and alleys is 15 mph.³
- c. 35 mph for semiurban districts. The fixed limit for a semiurban district in a town is 35 mph.⁴ State law defines a semiurban district as follows:

“Semiurban district” means the territory contiguous to and including any highway where on either side of the highway within any 1,000 feet along such highway the buildings in use for business, industrial or residential purposes fronting thereon average not more than 200 feet apart or where the buildings in use for such purposes fronting on both sides of the highway considered collectively average not more than 200 feet apart.

This semiurban fixed limit is not simple, it requires some careful attention. Note the following:

¹ 346.57(4), Wis. Stats.

² 346.57(4)(h), Wis. Stats.

³ 346.57(4)(a)-(d), Wis. Stats.

⁴ 346.57(4)(g) and 346.57(1)(b), Wis. Stats.

MUNICIPAL LAW & LITIGATION GROUP, S.C.

Renee Lauber
November 20, 2024
Page 2

- Aerial photographs, available on GIS, may help to identify possible 1,000 foot stretches of road that may have this level of development.
 - A common misunderstanding is that you measure between driveway access points, but that is not what the statute says. The statute says you measure the distance between “buildings in use for business, industrial or residential purposes.”
 - The calculation includes the buildings on both sides of the road.
 - Nothing in the statute requires the calculation to be made by an engineer or by a formal traffic study.
 - Official signs must be posted.⁵
- d. 35 mph, measured differently. In addition to the fixed limit that applies to semiurban districts, a 35 mph fixed limit also applies based on the following calculation:⁶

Thirty-five miles per hour on any town road where on either side of the highway within any 1,000 feet along such highway the buildings in use for business, industrial or residential purposes fronting thereon average less than 150 feet apart, provided the town board has adopted an ordinance determining such speed limit and has posted signs at such points as the town board deems necessary to give adequate warning to users of the town road.

The differences between the 35 mph semiurban district described above and this statute are:

- The average distance between buildings in this case must be 150 feet or less, unlike 200 feet applicable to a semiurban district.
 - This calculation applies to “either side” of the highway, as opposed to “both sides” that applies to semiurban districts. So, as one example, if one side of the road is heavily developed but the other side is vacant farmland, it is possible it is not a semiurban district as defined (because that calculation includes both sides), but it still may qualify for a 35 mph limit per this section (because the calculation can be limited to the heavily developed side).
 - This 35 mph limit does not apply automatically, it must be established by ordinance and proper signs must be posted.
- e. 15 mph within or adjacent to parks. The fixed limit for town roads adjacent to or within a public park or recreation area is 15 mph,⁷ subject to the following:
- The statute says this limit applies “when children are going to or from or are playing within such area.”
 - This 15 mph limit does not apply automatically, it must be established by ordinance and proper signs must be posted.

⁵ 346.57(6)(a), Wis. Stats.

⁶ 346.57(4)(j), Wis. Stats.

⁷ 346.57(4)(i), Wis. Stats.

MUNICIPAL LAW & LITIGATION GROUP, S.C.

Renee Lauber
November 20, 2024
Page 3

- f. 45 mph for rustic roads. Towns have an ability to seek DOT designation of a “rustic road”⁸ and when they succeed in doing so, the fixed limit is 45 mph.⁹ Official signs must be posted.¹⁰

II. Modifying Fixed Limits

Part A: Permitted Modifications

Once you have identified the applicable fixed limit for the road in question, you next can consider whether that limit can be modified. Subject to the procedures described in Part B, below, the modifications that State law allows are as follows:

- a. Increases. You can increase the speed limit, for the following:
- Within a semiurban district, you can increase the speed limit to higher than the 35 mph fixed limit.¹¹
- b. Decreases. You can reduce the following speed limits:
- In a school zone or school crossing the 15 mph fixed speed limit can be reduced by 10 mph or less.¹²
 - In an alley the 15 mph fixed speed limit can be reduced by 10 mph or less.¹³
 - In a semiurban district the 35 mph fixed speed limit can be reduced by 10 mph or less.¹⁴
 - Where the fixed limit is 55 mph the speed limit can be reduced by 10 mph or less.¹⁵
 - For a rustic road, the 45 mph speed limit can be reduced by 15 mph or less.¹⁶

Part B: Procedure for Modifications

Before a modification to the fixed speed limits can be made, certain procedures must be followed:

- a. Finding. You must make one of the following findings:¹⁷
- That the “statutory speed limit is greater or less than is reasonable or safe under the conditions found to exist upon any part of a highway;” or

⁸ 83.42(3), Wis. Stats.

⁹ 346.57(4)(k), Wis. Stats.

¹⁰ 346.57(6)(a), Wis. Stats.

¹¹ 349.11(3)(c) and 346.57(4)(g)

¹² 349.11(3)(c) and 346.57(4)(a) and (b)

¹³ 349.11(3)(c) and 346.57(4)(d)

¹⁴ 349.11(3)(c) and 346.57(4)(g)

¹⁵ 349.11(3)(c) and 346.57(4)(h)

¹⁶ 349.11(3)(c) and 346.57(4)(k)

¹⁷ 349.11(1)(a), Wis. Stats

MUNICIPAL LAW & LITIGATION GROUP, S.C.

Renee Lauber
November 20, 2024
Page 4

- That the “actual speed of vehicles upon any part of a highway is greater or less than is reasonable and prudent.”
- b. Investigation. The foregoing finding must be made “upon the basis of an engineering and traffic investigation.”¹⁸ Note the following:
 - The statute does not say that this must be a full traffic impact analysis (TIA). The statute provides no further requirements for this investigation, other than that it be an “engineering and traffic investigation.”
 - The statute does not specify who must make this investigation.
 - You can reasonably determine the extent of the engineering and traffic investigation you require to make the foregoing finding, therefore.
- c. Determination and Declaration. Upon the foregoing investigation and finding, you may:
 - “Determine and declare a reasonable and safe speed limit on the highway or part thereof in question.”¹⁹ The statute does not specify the form of action required to do so, but doing so by ordinance is recommended.
 - Official signs must be posted to give notice of the modified speed limits,²⁰ meeting the specifications of the DOT and the Manual on Uniform Traffic Control Devices.
 - Note that the modifications described in this Guide can all be made by the town board directly, without oversight or approval being required from the DOT or the county (except where noted).

If you should have any questions or concerns regarding this matter, please do not hesitate to contact me.

Yours very truly,

MUNICIPAL LAW & LITIGATION GROUP, S.C.

Eric J. Larson

Eric J. Larson

EJL/em

¹⁸ 349.11(1)(a), Wis. Stats

¹⁹ 349.11(1)(a), Wis. Stats

²⁰ 349.11(1)(a), and 349.11(5), Wis. Stats.