

CHAPTER 16

CONSTRUCTION AND EFFECT OF ORDINANCES

16.01 CONFLICT AND SEPARABILITY

- (1) **Conflict of Provisions.** If the provisions of the different Chapters of this Code conflict with or contravene each other, the provisions of each Chapter shall prevail as to all matters and questions arising out of the subject matter of such Chapter.
- (2) **Severability of Code Provisions.** If any Section, Subsection, sentence, clause, or phrase of the Code is for any reason held to be invalid or unconstitutional by reason of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other Section, Subsection, sentence, clause, phrase, or portion thereof irrespective of the fact that any one or more Sections, Subsections, sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional.
- (3) The provisions of this Code are not to be construed to violate or conflict with any constitution, statute, law, regulation, rule, or ordinance, or part thereof, of the United States of America, the State of Wisconsin, or Winnebago County.

16.02 REPEAL OF GENERAL ORDINANCES

All ordinances heretofore adopted by the Town Board are hereby repealed.

16.03 EFFECT OF REPEALS

The repeal or amendment of any Section or provision of this Code or of any other ordinance or resolution of the Board shall not:

- (1) By implication be deemed to revive any ordinance not in force or existing at the time at which such repeal or amendment takes effect.
- (2) Affect any vested right, privilege, obligation, or liability acquired, accrued, or incurred under any enactment so repealed or amended, unless the privilege of repealing such obligation or privilege has been reserved by the Town.
- (3) Affect any offense committed or penalty or forfeiture incurred, previous to the time when any ordinance shall be repealed or amended, except that when any forfeiture or penalty shall have been mitigated by the provisions of any ordinance, such provisions shall apply to and control any judgment to be pronounced after such ordinance takes effect for any offense committed before that time.
- (4) Affect any prosecution for any offense, or the levy of any penalty or forfeiture pending at the time when any ordinance aforesaid shall be repealed or amended, but the right of action shall continue and the offender shall be subject to the penalty as provided in such ordinances, and such prosecution shall proceed, in all respects, as if such ordinance or ordinances had not been repealed, except that all such proceedings had after the time this Code shall take effect, shall be conducted according to the provisions of this Code.

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16.04 TITLE: EFFECTIVE DATE: CITATION

These ordinances shall be known as the "Municipal Code of the Town of Neenah" and shall take effect from and after passage and publication as provided in Sec. 66.035, Wis. Stats. All references thereto shall be cited by Section number (example: Section 12.04, Municipal Code of the Town of Neenah).

16.05 PENALTIES

The Penalty for any violation of this Code for which a penalty is not otherwise provided shall be not less than fifty dollars (\$50.00) and not more than \$150.00, plus court costs and fees, plus any assessments that are imposed by law.

16.06 ADMINISTRATIVE FEE ON SPECIAL CHARGES

- (1) **Policy.** The Town desires to be fair and equitable when allocating the cost of town services and to provide services for its residents without all property owners paying for the administration of services that only benefit a few residents.
- (2) **Definition.** "Special charges" means a charge back to a property owner for services such as snow and ice removal, weed elimination, tree care, soil conservation work, storm water management, private road work, or street lighting.
- (3) **Fee.** There shall be an administrative fee of ten percent (10%) of the total charge or ten dollars (\$20.00), whichever is greater, on special charges.
- (4) **Penalty.** If a special charge is not paid within the time determined by the Town Board, the special charge plus 1.5% per month interest, compounded monthly, shall be delinquent and shall be included in the next tax roll for collection.

16.07 BULKHEAD LINES

- (1) The bulkhead line ordinances incorporated below, having been properly approved and recorded pursuant to Wis. Stats. Sec. 30.11, are hereby preserved.
- (2) The repeal of general ordinances and listing of bulkhead line ordinances herein is not to be construed as terminating any other bulkhead line that has been properly established within the Town of Neenah and recorded with the Register of Deeds for and in Winnebago County.
- (3) Copies of the maps referenced within the bulkhead line ordinances shall be kept on record with the Town Clerk of the Town of Neenah and with the Register of Deeds for and in Winnebago County.
- (4) To repeal a bulkhead line ordinance, including but not limited to any of the ordinances preserved below, the Town Board shall make written application to the Wisconsin Department of Natural Resources.

Note: Pursuant to NR 302.04(2), the DNR has the general policy of denying applications for new bulkhead lines.

(5) **Bulkhead Line Ordinances**

- (a) **An ordinance establishing a shore line, pursuant to Section 30.02(1)(a), Wisconsin Statutes, in the north west one quarter (1/4) of section thirty-five (35), township twenty (20) north, of range seventeen (17) east, Town of Neenah, Winnebago County, Wisconsin.** [Formerly Ordinance No. 27]
[Recorded March 4, 1955] [Record 220,860]

The Town Board of the Town of Neenah, Winnebago County, Wisconsin, do ordain as follows:

1. That in the interest of the public, to improve public navigation, and to establish a proper shore line in conformity as nearly as practicable to the existing shore line, the presently existing shore line in the North West One Quarter (1/4) of Section Thirty-five (35), Township Twenty (20) North, of Range Seventeen (17) East, Town of Neenah, Winnebago County, Wisconsin, as set forth by a solid line in a survey of said shore line by McMahon Engineering Company of Menasha, Wisconsin, dated February 3, 1955, attached hereto and made a part hereof, and more particularly described as follows:

Commencing at a point on the North line of Section Thirty-four (34), Township Twenty (20) North, Range Seventeen (17) East, Town of Neenah, Winnebago County, Wisconsin, that is Two Thousand Four Hundred Seventy-five and Seven Tenths Feet (2,475.7') East of the Northwest corner of the Northeast One Quarter (N.E. 1/4) of said Section Thirty-four (34); thence South Thirty-eight Degrees Twenty-two Minutes (38°22') East Four Hundred Forty Feet (440'); thence South Forty-five Degrees Thirty Minutes (45°30') East One Hundred Feet (100'); thence South Fifty-six Degrees Four Minutes (56°04') East One Hundred Feet (100'); thence South Sixty-nine Degrees Twenty-two Minutes (69°22') East One Hundred Feet (100'); thence South Seventy-eight Degrees Ten Minutes (78°10') East One Hundred and Fifty Feet (150'); thence South Eight-two Degrees Twenty-one Minutes (82°21') East Three Hundred Two and Eight Tenths Feet (302.8') to the point of the beginning of the shoreline to be described; thence South Fourteen Degrees Five Minutes (14°05') West Two Hundred Ten Feet (210'); thence South Forty-nine Degrees Forty Minutes (49°40') West Fifty Feet (50'); thence North Eighty-nine Degrees Twenty-five Minutes (89°25') West One Hundred Twenty-five Feet (125'); thence North Seventy-five Degrees Thirty-five Minutes (75°35') West One Hundred Seventy-three Feet (173'); thence North Eighty-three Degrees Five Minutes (83°05') West One Hundred Thirty-two Feet (132'); thence South Thirty Degrees (30°) West One Hundred Feet (100'); thence South Twenty-five Degrees (25°) East One Hundred Feet (100'); thence South Thirteen Degrees Forty-five Minutes (13°45') West Ninety Feet (90'); Thence South Twenty-six Degrees Twenty Minutes (26°20')

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East Sixty-eight Feet (68'); thence South Fifty-five Degrees Forty Minutes (55°40') East Forty-six Feet (46'); thence South Eighty-one Degrees Twenty-five Minutes (81°25') East Seventy-five feet (75'); thence South Seventy-one Degrees Forty Minutes (71°40') East Eighty Feet (80'); thence South Forty-four Degrees Ten Minutes (44°10') East Two Hundred Fifty-eight (258'); thence South Forty Degrees Fifteen Minutes (40°15') East Ninety-five Feet (95'); thence South Sixty-four Degrees Twenty-five Minutes (64°25') East Three Hundred Forty Feet (340'); thence South Thirty-nine Degrees Fifteen Minutes (39°15') East Sixty-four Feet (64'); thence South Eighty-nine Degrees Five Minutes (89°05') East Ninety Feet (90'); thence North Ten Degrees Fifteen Minutes (10°15') East Two Hundred Eighty Feet (280'); thence North Zero Degrees South Twenty-six Degrees (26°) East Forty Feet (40'); thence South Two Degrees Thirty Minutes (2°30') West One Hundred Six Feet (106'); thence South Seven Degrees Twenty Minutes (7°20') West Two Hundred Forty-two Feet (242'); thence South Forty-five Degrees (45°) East Thirty Feet (30'); thence North Eighty-one Degrees Five Minutes (81°05') East One Hundred Eighty-five Feet (185'); thence North Sixty-seven Degrees Fifty Minutes (67°50') East Two Hundred Sixty Feet (260'); thence North Seventy-eight Degrees Thirty Minutes (78°30') East One Hundred Fifty-five Feet (155'); thence North Seventy-four Degrees Ten Minutes (74°10') East Two Hundred Forty-eight Feet (248'); thence North Fifty-three Degrees Thirty-five Minutes (53°35') East Seventy Feet (70'); thence North Twenty-six Degrees Twenty Minutes (26°20') East One Hundred Seventy Feet (170'); thence North Thirty-nine Degrees Twenty Minutes (39°20') East Seventy Feet (70'); thence North Twenty-five Degrees (25°) East Sixty Feet (60'); thence North Two Degrees Thirty Minutes (2°30') West Eighty-three Feet (83'); thence North Fifteen Degrees Five Minutes (15°05') West Sixty-eight Feet (68'); thence North Forty-one Degrees Forty-five Minutes (41°45') West One Hundred Feet (100').

is hereby amended, revised, and changed so as to legally establish pursuant to Section 30.02(1)(a), Wisconsin Statutes, a new shore line for said property which shall hereafter be legally described as follows:

Commencing at a point on the North line of Section Thirty-four (34), Township Twenty (20) North, Range Seventeen (17) East, Town of Neenah, Winnebago County, Wisconsin, that is Two Thousand Four Hundred Seventy-five and Seven Tenths Feet (2475.7') East of the Northwest corner of the Northeast One Quarter (N.E. 1/4) of said Section Thirty-four (34); thence South Thirty-eight Degrees Twenty-two Minutes (38°22') East Four Hundred Forty Feet (440'); thence South Forty-five Degrees Thirty Minutes (45°30') East One Hundred Feet (100'); thence South Fifty-six Degrees Four Minutes (56°04') East One Hundred Feet (100'); thence South Sixty-nine Degrees Twenty-two Minutes

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(69°22') East One Hundred Feet (100'); thence South Seventy-eight Degrees Ten Minutes (78°10') East One Hundred Fifty Feet (150'); thence South Eighty-two Degrees Twenty-one Minutes (82°21') East Three Hundred Two and Eight Tenths Feet (302.8') to the point of the beginning of the shoreline to be described; thence South Sixteen Degrees Thirteen Minutes (16°13') West Two Hundred Thirty-six and Four Tenths Feet (236.4'); thence South Eighty-two Degrees Forty-seven Minutes (82°47') West Two Hundred Sixty-eight and Nine Tenths Feet (268.9'); thence North Seventy-six Degrees Fifty-one Minutes (76°51') West Two Hundred Feet (200'); thence South One Degrees Sixteen Minutes (1°16') West Two Hundred Sixty-seven Feet (267'); thence South Fifty-two Degrees Six Minutes (52°06') East Six Hundred Twenty-four and Seven Tenths Feet (624.7'); thence South Sixty-seven Degrees Fifteen Minutes (67°15') East Four Hundred Forty-five Feet (445'); thence South Eighty-six Degrees Ten Minutes (86°10') East Two Hundred Thirty-two and Two Tenths Feet (232.2'); thence North Sixty-nine Degrees Forty-four Minutes (69°44') East Two Hundred Fifty Feet (250'); thence North Sixty-five Degrees Twenty-one Minutes (65°21') East Five Hundred Feet (500'); thence North Twenty-six Degrees Thirty-seven Minutes (26°37') East Two Hundred Eighty-nine and Eight Tenths Feet (289.8'); thence North Four Degrees Twenty-two Minutes (4°22') West One Hundred Twenty Feet (120'); thence North Thirty-one Degrees Thirty Minutes (31°30') West One Hundred Feet (100').

Which newly established shore line is shown by a broken line in McMahon Engineering Company's survey dated February 3, 1955, attached hereto and made a part hereof.

2. This ordinance shall take effect and be in force from and after its passage and publication as provided by law and from and after its approval by the Public Service Commission of the State of Wisconsin.
3. When approved by the Public Service Commission of the State of Wisconsin, a copy of this ordinance and the survey incorporated herein certified to be a true and correct copy by the Town Clerk shall be recorded at the office of the Register of Deeds for Winnebago County, Wisconsin.

Passed: February 17, 1955.
Approved: February 17, 1955.

/s/ James O'Conner
Chairman

Attest: /s/ Donald O. Reinhardt
Town Clerk

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- (b) **An Ordinance to amend Ordinances No. 27 of the Town of Neenah, Winnebago County, Wisconsin, dated February 17, 1955, to establish a new bulkhead line of part of Lake Winnebago in the North West One Quarter of Section Thirty-five (35), Township Twenty (20) North, of Range Seventeen (17) East, Town of Neenah, Winnebago County, Wisconsin.** [Formerly Ordinance No. 41] [Recorded June 22, 1960] [Record 277,774]

The Town Board of the Town of Neenah, Winnebago County, being duly authorized under sections 60.29(29) and 30.11(3), Statutes, to cause improvements to be made in any lake located in said Town, and to establish or re-establish bulkhead lines, does ordain as follows:

1. That Ordinance No. 27 of the Town of Neenah, Winnebago County, Wisconsin, passed and adopted on February 17, 1955, and filed with the Town Clerk of the Town of Neenah and recorded at the Office of the Register of Deeds for and in Winnebago County, Wisconsin, as Document No. 220,860 in Volume 154A of L..P. on Page "N" on March 4, 1955, which ordinance is incorporated herein by reference as if fully set forth herein, which established a shore line in the North West One Quarter (1/4) of Section Thirty-Five (35), Township Twenty (20) North, of Range Seventeen (17) East, Town of Neenah, Winnebago County, Wisconsin, be amended so as to establish and determine a bulkhead line as set forth in the following description and the attached map, subject to the approval of the Public Service Commission of Wisconsin, namely:

Commencing at the West One Quarter (W.1/4) corner of said Section Thirty-five (35), Township Twenty (20) North, Range Seventeen (17) East; thence due North One Thousand Four Hundred Eighty Feet (1,480'); thence due East Two Hundred Eighty Feet (280') to the point of the beginning; thence North Nine Degrees Nine Minutes (9°9') West Two Hundred Twenty Feet (220'); thence North Thirty-three Degrees Nineteen Minutes (33°19') East One Hundred Ninety-eight and Four Tenths Feet (198.4'); thence South Eighty-five Degrees Forty-five Minutes (85°45') East Three Hundred Seventy-eight Feet (378'); thence North Seven Degrees Thirty-eight Minutes (7°38') East One Hundred Sixty-five and Five Tenths Feet (165.5'); thence North Forty-nine Degrees Seventeen Minutes (49°17') East One Hundred Thirteen and Five Tenths Feet (113.5'); thence South Eighty-five Degrees Eleven Minutes (85°11') East Three Hundred Sixty-nine and Three Tenths Feet (369.3'); thence South Eighty Degrees Fifty-eight Minutes (80°58') East Three Hundred Eighty-seven and Eight Tenths Feet (387.8'); thence North Nine Degrees Two Minutes (9°02') East Fifty Feet (50'); thence North Eighty Degrees Fifty-eight Minutes (80°58') West Three Hundred Eighty-nine and Six Tenths Feet (389.6'); thence North Eighty-five Degrees Eleven Minutes (85°11') West Three Hundred Seventy-one and One Tenth Feet (371.1'); hence South Eighty-three Degrees Thirteen Minutes (83°13') West Ninety-one and Five Tenths Feet (91.5') to a point on the shore of Lake Winnebago,

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also beginning again at the same point of beginning; thence due South One Hundred Fifty Feet (150'); thence South Forty-five Degrees Zero Minutes (45°00') East Two Hundred Forty and Four Tenths Feet (240.4'); thence South Eighty-four Degrees Seventeen Minutes (84°17') East One hundred and Five Tenths Feet (100.5'); thence due East Four Hundred Twenty-five Feet (425'); thence North Eighty-four Degrees Seventeen Minutes (84°17') East One Hundred and Five Tenths Feet (100.5'); thence North Forty-five Degrees Zero Minutes (45°00') East One Hundred Feet (100'); thence due North Two Hundred and Five Feet (205'); thence due East Sixty Feet (60'); thence due South Two Hundred Five Feet (205'); thence South Forty-five Degrees Zero Minutes (45°00') East One Hundred Feet (100'); thence South Eighty-four Degrees Thirteen Minutes (84°13') East Ninety-nine and One Tenth Feet (99.1'); thence North Eighty-eight Degrees Five Minutes (88°05') East Three Hundred and Two Tenths Feet (300.2'); thence North Seventy Degrees Zero Minutes (70°00') East Three hundred Five Feet (305'); thence North Thirty-five Degrees Forty-five Minutes (35°45') East Ninety-nine and Four Tenths Feet (99.4'); thence due North Four Hundred Fifteen Feet (415'); thence North Forty-four Degrees Nineteen Minutes (44°19') West One Hundred Seventy-eight and Nine Tenths Feet (178.9'); thence North Sixty-nine Degrees Thirty Minutes (69°30') West One Hundred Twenty Feet (120'); thence North Twenty Degrees Thirty Minutes West One Hundred Twenty Minutes (20°30') East Fifty feet (50') to a point on the shore of Lake Winnebago.

2. That three certified copies of the ordinance, together with three true and correct copies of such map, be submitted to the Public Service Commission of Wisconsin for its approval.
3. That upon the return and receipt of the approved copies of the ordinance and map the same be filed as follows:
 - a. One in the office of the Public Service Commission;
 - b. One in the office of the town clerk of the Town of Neenah, Winnebago County, Wisconsin; and
 - c. One in the Office of the Register of Deeds for and in Winnebago County, Wisconsin.
4. That this Ordinance shall take effect and be in force from and after its passage and publication as provided by Section 60.18(4) of the Wisconsin Statutes, and after being published for one time in the Twin City News-Record, Neenah, Wisconsin.

Made and Signed this 23 day of May, 1960.

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- (c) **An Ordinance to amend Ordinance No. 41, of the Town of Neenah, Winnebago County, Wisconsin, dated May 23, 1960, to establish a new bulkhead line of part of Lake Winnebago in the North West One Quarter (1/4) of Section Thirty-five (35), Township Twenty (20) North, of Range Seventeen (17) East, Town of Neenah, Winnebago County, Wisconsin.** [Formerly Ordinance No. 44] [Recorded February 1, 1961] [Record 284,740]

The Town Board of the Town of Neenah, Winnebago County, being duly authorized under sections 60.29(29) and 30.11(3), Statutes to cause improvements to be made in any lake located in said Town, and to establish or re-establish bulkhead lines, does ordain as follows:

1. That Ordinance No. 41 of the Town of Neenah, Winnebago County, Wisconsin, passed and adopted on May 23, 1960, and filed with the Town Clerk of the Town of Neenah and recorded at the Office of the Register of Deeds for and in Winnebago County, Wisconsin, as Document No. 277,774 in Volume 154A of L.P. on Page "N" on June 22, 1960, which ordinance is incorporated herein by reference as if fully set forth herein, which established a shore line in the North West One Quarter (1/4) of Section Thirty-five (35), Township Twenty (20) North, of Range Seventeen (17) East, Town of Neenah, Winnebago County, Wisconsin, be amended in part so as to establish and change the heretofore established bulkhead line in part to a bulkhead line as set forth in the following description and the attached map, subject to the approval of the Public Service Commission of Wisconsin, namely:

Commencing at the West One Quarter (W. 1/4) corner of said Section Thirty-five (35), Township Twenty (20) North, Range Seventeen (17) East; thence due North One Thousand Four Hundred Eighty Feet (1,480'); thence due East Two Hundred Eighty Feet (280'); thence North Nine Degrees Nine Minutes (9°09') West Two Hundred Twenty Feet (220') to the point of the beginning, said point being on the existing bulkhead line; thence South Zero Degrees (0°) East Forty-seven Feet (47'); thence South Fifty-two Degrees Thirty Minutes (52°30') East Nine Hundred Twenty Feet (920'); thence due East One Hundred Ten Feet (110'); thence North Twenty-three Degrees Twenty Minutes (23°20') East One Hundred Fifty-three and Two Tenths Feet (153.2'); thence due North Two Hundred Five Feet (205'); thence due East Sixty Feet (60'); thence due South Two Hundred Five Feet (205'); thence South Twenty-three Degrees Twenty Minutes (23°20') East One Hundred Fifty-three and Two Tenths Feet (153.2'); thence due East One Hundred Fifty-three and Two Tenths Feet (153.2'); thence due East One Hundred Sixty-one and Six Tenths Feet (161.6'); thence North Seventy Degrees Zero Minutes (70°00') East Five Hundred Eighty-nine Feet (589'); thence North Thirty-five Degrees Forty-five Minutes (35°45') East Sixty-six Feet (66') to a point on the Existing bulkhead line.

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2. The said newly described bulkhead line which begins and ends at points on the previously established bulkhead line does not change the previously established bulkhead line north of those points on the said line wherein the newly described bulkhead line begins and ends, said unchanged previously established bulkhead line remaining the established bulkhead line.
3. That three certified copies of the ordinance, together with three true and correct copies of such map, be submitted to the Public Service Commission of Wisconsin for its approval.
4. That upon the return and receipt of the approved copies of the ordinance and map the same be filed as follows:
 - a. One in the office of the Public Service Commission;
 - b. One in the office of the Town Clerk of the Town of Neenah, Winnebago County, Wisconsin; and
 - c. One in the Office of the Register of Deeds for and in Winnebago County, Wisconsin.
5. That this Ordinance shall take effect and be in force from and after its passage and publication as provided by law and from and after its approval by the Public Service Commission of the State of Wisconsin.

Made and Signed this 31 day of January, 1961.

/s/ Laurel Heaney

/s/ K.L. Heinz

/s/ Denver Buser

Supervisors of the Town of Neenah

- (d) **An Ordinance to establish the bulkhead line of part of Winnebago Lake, Winnebago County, Wisconsin, between lots 13 and 14, Survey of Dieners Plat. (or as you may otherwise determine)** [Formerly Ordinance No. 52] [Recorded March 30, 1964] [Record 320,490]

The Town Board of the Town of Neenah, Winnebago County, being duly authorized under sections 60.29(29) and 30.11(3), Statutes, to cause improvements to be made in any lake located in said town, does ordain as follows:

1. That the bulkhead line of that part of the West shore of Winnebago Lake, hereinafter described and more particularly shown by the attached map, is established and determined as set forth in the following description and

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the attached map, subject to the approval of the Public Service Commission of Wisconsin, namely:

(Here attach the description of the new bulkhead line by courses and distances.)

2. That three certified copies of the ordinance, together with three true and correct copies of such map, be submitted to the Public Service Commission of Wisconsin for its approval.
3. That upon the return and receipt of such approved maps the same be filed as follows:
 - a. One in the office of the Public Service Commission;
 - b. One in the office of the town clerk of the Town of Neenah, Winnebago County, Wisconsin; and
 - c. One in the office of the Register of Deeds for and in Oshkosh Winnebago County, Wisconsin

Made and Signed this 30th day of March, 1964

/s/ Laurel Heaney

/s/ Denver Buser

/s/

Supervisors of the Town of Neenah

Description of Proposed Shore Line – Anderson Property
Town of Neenah, Wisconsin.

Beginning on the North Line of Lot Fourteen (14) of Dieners Plat in Section Two (2), Township Nineteen (19) North, Range Seventeen (17) East in the Town of Neenah, Winnebago County, Wisconsin, at a point on the present shore line of Lake Winnebago, said point being Two Hundred and Thirty-four Feet (234') due East of the Northwest corner of said Lot Fourteen (14), thence South Twenty-nine Degrees Thirty Minutes (29°30') West Two Hundred and Thirty-five Feet (235); thence South Eighty-nine Degrees Thirty Minutes (89°30') West approximately Ninety Feet (90') to a point on the present shore line of said Lake Winnebago.

McMahon Engineering Co
TCW; gw
March 24, 1964