

STATE OF WISCONSIN

Town of Oakland

Douglas County

SECTION I – TITLE AND PURPOSE

The title of this ordinance is the Town of Oakland Driveway Access Permit Ordinance. The purpose is to regulate, for public health and safety reasons, the establishment, repair, construction, improvement, modification, and reconstruction of private driveways, to assure that the methods of repair, construction, improvement, modification, and reconstruction practices used in any driveway will protect properly the public health, safety, and general welfare of persons in the Town of Oakland, and to limit and regulate highway access by motor vehicles to any town highway in the town. This is not a town zoning ordinance.

SECTION II – AUTHORITY

The town board has the specific authority under ss. 66.0425 and 86.07, Wis. stats., to adopt a town driveway access permit ordinance, and has the general authority under its village powers under s.60.22, Wis. stats., to adopt this ordinance.

SECTION III – ADOPTION OF ORDINANCE

This ordinance, adopted by a majority of the town board on a roll call vote with a quorum present and voting and proper notice having been given, provides for the regulation by permit of certain driveway access locations in the town.

SECTION IV – DEFINITIONS

In this ordinance:

- A. "Driveway" means any private way, private road, or other avenue of private travel that runs through any part of a private parcel of land that connects or will connect with any public highway, and will provide vehicular access from the highway to a residence, business, recreational site, or other similarly appropriate use.
- B. "Emergency vehicle" means any fire, police, ambulance, or first responder vehicle used in emergency or hazard activities in the town.
- C. "Impacted landowner" means an owner of real estate that is provided vehicular access to a public highway by a driveway determined to be unsafe.
- D. "Prime or productive agricultural or forestry land" means any land within the town that is currently being farmed or kept in forestry, including cropland and pastureland, or land that is included in a government sponsored agricultural or forestry program.

- E. "Town" means the Town of Oakland, Douglas County, Wisconsin.
- F. "Town board" means the board of supervisors for the Town of Oakland, Douglas County, Wisconsin, and includes any designee of the board authorized to act for the board.
- G. "Town clerk" means the clerk of the Town of Oakland, Douglas County, Wisconsin.
- H. "Wis. stats." means the Wisconsin Statutes, including successor provisions to cited statutes.

SECTION V – COVERAGE

A. No person may establish or construct a driveway or reconstruct, reroute, or alter the existing slope of any existing driveway or any town or other highway or highway right-of-way in the town in relation to the connection of the highway or highway right-of-way to a driveway, whether new or previously existing, without first obtaining a Town Driveway Access Permit to be issued by the town board.

B. Any person prior to and at the time of seeking a Town Driveway Access Permit must own or have a legal interest in and current legal access to the land to which the permit(s) will apply.

1. Commencing 6 months after the effective date of this ordinance and upon receipt of written notice from the town, no landowner may maintain or use, or allow the maintenance or use of, any existing driveway on the landowner's land for general public or emergency vehicle access to and from a residential dwelling in the town if the driveway, for any structural, location, or design reasons, has been determined by the town board, or its agents, in writing to substantially limit or negate safe and timely vehicle access and travel of general public or emergency vehicles to and from the residential dwellings served by the driveway.

2. The town board shall serve upon any potentially impacted landowner a copy of its written determination under paragraph 1 that a driveway substantially limits or negates safe and timely vehicle access and travel of general public or emergency vehicles to and from the residential dwellings served by the driveway. The determination of the town board shall not be final until a public hearing before the town board has been held. The town board shall publish a class 2 notice, under s. 985.07, Wis. stats., of the public hearing.

3. A copy of the town board's written determination and notice of the public hearing on the town board's determination shall be served by registered or certified mail on any potentially impacted landowner within 20 days of the making of the written determination and at least 10 days prior to the hearing date. The notice shall include the names of all potentially impacted landowners and the location of the subject driveway in the town. The notice may specifically contain a warning that, due to the existing condition of the driveway, emergency vehicle access to the dwellings served by the subject driveway may not be possible.

4. Any potentially impacted landowner may provide at the public hearing evidence regarding access provided by and the condition of the driveway. Any potentially impacted landowner may be represented by legal counsel at the public hearing and may present witnesses and cross-examine witnesses

presented by the town board. All witnesses testifying before the town board shall be under oath. No person testifying before the hearing shall vote as a member of the town board in making a final determination regarding the subject driveway.

5. The town board, at or after the hearing, may order any of the following:

a. That the town attorney seek a court order providing that the driveway be closed for general vehicle traffic use, but not closed to emergency vehicle use, until the driveway is structurally designed and reconstructed to allow for safe and timely general public and emergency vehicle access to and from the residential dwellings served by the driveway.

b. That the town attorney seek a court order providing that the driveway be reconstructed or repaired to allow for safe and timely vehicle access and travel of general public or emergency vehicles to and from the residential dwellings served by the driveway in a proper manner and in a reasonable time specified by the court and that if the driveway is not so reconstructed or repaired by the date specified, the town board may have the driveway reconstructed or repaired and the cost assessed as a special assessment against the land under its police power under ss. 66.0701 and 66.0703, Wis. stats.

c. Other reasonable and necessary action that will serve to protect the public health and safety of persons within the town, including the owner, occupants, or guests of the owner of the land.

SECTION VI – SPECIFICATIONS

Commencing 6 months after the effective date of this ordinance for existing driveways and commencing on the effective date of this ordinance for new driveways being constructed, all driveways in the town for which a Town Driveway Access Permit is required under Section V shall meet all of the following minimum requirements. No permit shall be issued unless the materials submitted as required under Sections VII and IX demonstrate compliance with the requirements of this section:

1. Minimum top of driveway width will be 20 feet.
2. Minimum vertical clear height above driveway will be 15 feet for emergency vehicles.
3. Minimum inslope for driveway radius will be 2:1.
4. The driveway shall not obstruct or impair drainage in highway side ditches.
5. The surface of the driveway connecting with the highway shall slope down and away from highway shoulder to preclude ordinary surface water drainage from the driveway area flowing on the road bed.
6. The size of culvert shall be approved by Town Chair designee.
7. The culvert pipe shall be made of steel or concrete.
8. Construction of bituminous, stone, concrete, timber, or any other type of vertical headwalls in driveway inslopes, backslopes, or ditches will not be permitted.
9. The driveway shall be constructed at right angles to the highway for the full width of the right of way.

SECTION VII – APPLICATION AND PERMIT PROVISIONS

A. The town board shall approve a form for application for the Town Driveway Access Permit, which shall be available from the town clerk. There is no fee for the Driveway Access Permit.

B. The applicant for a Town Driveway Access Permit shall submit to the town clerk a completed application for each the following attachments:

1. Sketch Map. A rough sketch showing the conceptual idea of the project and approximate location and dimensions of the project. The sketch map may be submitted to the town board prior to the preparation or submission of the other supporting documents in order for the town board to provide initial comments and review of the proposal. However, formal approval for a Town Driveway Access Permit will not be granted without the submission of complete supporting documents.

2. Plat Map. A plat map indicating the location and dimensions of the desired driveway and highway access locations, if any, as well as the parcels immediately adjacent to the applicant's property. The applicant may first submit only a sketch plat. Once the town board has reviewed the sketch plat, the applicant may be asked to submit an additional preliminary plat or final plat, or both.

3. Aerial Photo with proposed driveway location.

4. Approximate slope of the driveway centerline profile and side slopes.

5. Other Documents. The town board may require other documents to be attached to the Driveway Permit Application.

C. Procedures for the evaluation of the Town Driveway Access Permit Application by the town board, including any required site inspection of the proposed driveway, public hearing, and town board meetings, are as follows:

Mark the entrance and location of proposed driveway with brightly colored marking flags.

D. The town board shall approve or deny every Town Driveway Access Permit Application and may, as a condition of issuance, place specific restrictions or conditions on the permit, which shall require compliance by the permittee. Reasons for denying a Town Driveway Permit Application may include, but are not limited to:

1. The inconsistency or nonconformance of the proposed driveway or highway access with any of the following:

- a. This ordinance.

- b. Any existing town comprehensive plan, master plan, or land use plan.

- c. Town ordinances, rules, regulations, or plans.

- d. Any applicable county, state, or federal laws, ordinances, rules, regulations, or plans.

2. The driveway, bridge, culvert, or highway access, or any combination, when constructed, rerouted, reconstructed, or altered as proposed would be dangerous or unsafe for use by persons in the town.

3. The application as filed and submitted is incomplete or contains false information as determined by the town board.

4. Alternative driveway locations, bridges, culverts, and highway access locations will be safer for persons ingressing or egressing on the driveway and access point by motor vehicle or for persons traveling on the adjacent highway by motor vehicle.

5. Alternative driveway access locations will preserve or better protect more prime or productive agricultural or forestry land in the town.

6. Alternative driveway locations or alternative access highway locations will have less negative land use impact on historically, archaeologically, community, public, or culturally significant or environmentally sensitive parcels of land or facilities in the town, including land adjacent to or near the proposed driveway.

7. The driveway will not provide timely and adequate ingress and egress for emergency vehicles.

8. Other Access Points. The location of any other access points onto the town highway within one mile of the proposed access point.

E. In the event of a denial of a Town Driveway Permit Application, the town board shall recite in writing the particular facts upon which it bases its denial of the permit. The town board shall also afford the applicant an opportunity to review the town board's decision and present evidence at a public hearing after a Class 1 Notice under s. 985.07, Wis. stats., of the hearing to the town board refuting the determination. Thereafter, the town board may affirm, reverse, or modify its decision. The town board shall recite in writing findings for any decision to modify or reverse its initial determination.

F. The Town Driveway Access Permit are effective for 12 months from the date of issuance. Each permit shall expire after 12 months unless renewed.

G. Each permit may be renewed for an additional period of 6 months. If the driveway or highway access has not been constructed by the end of one 6-month renewal period, a new application must be submitted and approved.

H. The applicant shall notify the Town Road Crew Foreman within 30 days after completion of the construction, reconstruction, rerouting, or alteration of the driveway or highway access. Within 30 days of notification, the town shall conduct an inspection of the driveway or highway access to ensure full compliance with all of the permit conditions and provisions of this ordinance. Upon a determination of completeness and compliance, the town board shall issue a Town Driveway Occupancy Permit.

I. No building permit for any construction of buildings or structures will be issued by the town until the driveway access is constructed, reconstructed, rerouted, or altered according to the specifications of the permit as issued and this ordinance.

J. The town board, or its designees, shall have the right of inspection onto land pursuant to a warrant issued under s. 66.0119, Wis. stats., for the purpose of inspecting existing or proposed driveways to determine if the driveways will allow for safe and timely travel by emergency vehicles or vehicles of the general public.

SECTION VIII

A. No construction, reconstruction, rerouting, or alteration of a driveway access onto a town highway may commence until all of the following conditions are met:

1. A Town Driveway Access Permit is issued by the town.
2. When applicable, any other necessary approvals are obtained from Douglas County or the State of Wisconsin.
3. The town board shall, when applicable, seek review and comment from the local fire chief, or his or her deputies, regarding the proposed driveway and whether the proposed driveway will allow for adequate and timely emergency vehicle access and other equipment access to buildings and structures within the premises.

B. As a condition of any Town Driveway Access Permit, the driveway shall be constructed and maintained by the owner or occupant to ensure safe, timely, and proper access and travel by emergency vehicles.

C. The approval of a Town Driveway Access Permit application by the town board does not constitute a determination that the driveway is safe, suitable for use or otherwise passable for vehicles of the general public or emergency vehicles, that public access and travel is authorized, or that the applicant or permittee is in compliance with this ordinance. No person may rely on the issuance of either permit to determine that a driveway, bridge, or culvert is fit or safe for any purpose or that any person is in compliance with this ordinance or any State or County laws or ordinance. The town board may require issuance of a Town Driveway Occupancy Permit prior to any determination by the town board that the driveway is fit for timely and safe travel by vehicles of the general public and emergency vehicles and that such travel is authorized. Issuance of a Town Driveway Occupancy Permit does not insure that the driveway will be suitable for use or otherwise passable for emergency vehicles at any time after the date of issuance of the Town Driveway Occupancy Permit.

D. The approval of the Town Driveway Permit or Town Driveway Occupancy Permit application does not establish or commit the town to future approval of any driveway as a public road or highway in the town.

SECTION IX – PENALTY PROVISION

The enforcement of this section and all other laws and ordinances relating to driveways shall be by means of withholding permits, imposition of forfeitures and injunctive action. All such actions shall be based upon non-compliance orders issued by the agent/agency. Failure to comply with this ordinance shall result in a penalty fee of \$100.00. Failure to pay the penalty fee within (30) days of notification will result in the addition of the penalty fee to the tax parcel on which the improvements have been made. Failure to comply with this ordinance may at the discretion of the Town Board, result in an order to remove the driveway from the premises. In cases where compliance cannot be achieved and action of the courts is initiated, Forfeitures shall be not less than \$25.00 nor more than \$1000.00 for each day through action of the court.

SECTION X – SEVERABILITY CLAUSE

If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION XI – EFFECTIVE DATE

This ordinance is effective on publication or posting.

The town clerk shall properly post or publish this ordinance as required under s. 60.80, Wis. stats.

Adopted this 12th day of December, 2017.