
Section 12.01 Driveway & Highway Access Permit Ordinance

ANY AND ALL ORDINANCES OR REGULATIONS OF THE TOWN OF UNION PREVIOUSLY ENACTED REGARDING DRIVEWAY AND HIGHWAY ACCESS PERMITS OR RELATED TO THE PROVISION THEREOF ARE HEREBY REPEALED, REVOKED AND ABROGATED AND IN PLACE THEREOF THIS ORDINANCE IS ADOPTED:

12.01 DRIVEWAY AND HIGHWAY ACCESS PERMIT ORDINANCE:

(1) Purpose:

The purpose of this Ordinance is to regulate the establishment, design, 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 the public health, safety and general welfare of persons in the Town of Union, promote the health and safety of the motoring public and emergency service personnel and equipment, and limit and regulate highway access by motor vehicles to any Town highway in the Town of Union.

(2) Authority:

Pursuant to and in accordance with s.60.22, 66.0425 and 86.07 Wis. Stats., this Ordinance is created.

(3) Definitions:

In this Ordinance:

- A. "Agricultural land" means any land within the Town that is currently being farmed, including cropland and pastureland, or land that is included in a government sponsored agricultural program.
- B. "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 serve to a residence, business, recreational site, farmland or other similarly appropriate use.
- C. "Emergency vehicle" means any fire, police ambulance or first responder vehicle used in emergency or hazard activities in the Town.
- D. A "Field drive" is defined as a special type of driveway that provides access from a town road to farmland or other adjacent vacant land. A field drive cannot be converted to a residential or commercial driveway without application and approval for a new driveway.
- E. "Highway" means a way or thoroughfare, except a waterway, that is used for vehicular travel by the public.

- F. "Impacted landowner" means an owner of real estate that is provided vehicular access to a public highway by a driveway determined to be unsafe.
- G. "Town" means the Town of Union, Rock County, Wisconsin.
- H. "Town board" means the board of supervisors for the Town of Union, Rock County, Wisconsin and includes any designee of the board authorized to act for the board.
- I. "Town Clerk" means the Clerk of the Town of Union, Rock County, Wisconsin.
- J. "Wis. stats." means the Wisconsin Statutes, including successor provisions to cited statutes.

(4) Permit Required:

- A. No person shall establish or construct a driveway, or reconstruct, reroute, or alter any highway access or the existing slope of any existing driveway or field drive or any Town or other highway or highway right-of-way in the Town without first obtaining a Town Driveway Permit to be issued by the Town Board.
- B. Any person prior to and at the time of seeking a Town Driveway Permit or a Town Highway Access Permit must own or have a legal interest in and current legal access to the land to which the permit(s) will apply.

(5) Specifications:

A. Driveways and Field Drives:

Commencing upon the effective date of this Ordinance, all new driveways being constructed, reconstructed, rerouted or altered in the Town shall meet all of the following minimum requirements. No permit shall be issued unless the materials submitted as required by this Ordinance demonstrate compliance with the requirements of this section.

The portion of the driveway/field drive between the traveled portion of the public highway and the private property:

- i. Visibility - There must be adequate visibility of oncoming traffic at the point where the driveway or field drives meets the highway.
 - a. For residential subdivision driveways an object three and one-half feet (3.5') high must be seen from the driveway/field drive at the edge of the traveled portion of the highway for a distance of two hundred feet (200') in each direction when viewed from a height of three and one-half feet (3.5').
 - b. For driveways not in a residential subdivision, an object three and one-half feet (3.5') high must be seen from the driveway/field drive at the edge of the traveled portion of the highway for a distance of three hundred feet (300') in each direction when viewed from a height of three and one-half feet (3.5').
- ii. The driveway/field drive approach angle at the edge of the traveled portion of the

- highway must be between 70 and 110 degrees.
- iii. The driveway/field drive must be constructed to prohibit run-off from encroaching on the traveled portion of the public highway.
 - iv. This portion of the driveway/field drive shall have a maximum grade of five percent (5%).
 - v. This portion of the driveway surface shall be a minimum of eighteen feet (18') and a:
 - a. maximum of twenty-four feet (24') wide for residential and non-field drives
 - b. Maximum of thirty-six feet (36') wide for field drives and commercial driveways.
 - vi. Each driveway/field drive shall have a culvert unless an exception is granted by the Town Board. The culvert shall be a minimum of fifteen inches (15") in diameter and a minimum of twenty-four feet (24') in length but no less than the surface width of the driveway or as otherwise determined by the Town Board. It will be the owner's responsibility to procure and install the culvert at his/her own expense. Installation shall be completed within a reasonable time after the issuance of the permit.
 - vii. A driveway shall be at least one hundred feet (100') from the paved or traveled portion of an intersecting public highway.
 - viii. Only one driveway access is allowed for each parcel zoned Rural Residential.
 - ix. Each driveway must have a minimum of six feet (6') of gravel or blacktopped surface from the edge of the road pavement.
 - x. The portion of the driveway beyond the public right-of-way:
 - a. The driveway shall have a finished surface at least twelve feet (12') in width. It shall have at least six inches (6") of three inch (3") rock on the roadbed covered with at least two inches (2") of three-quarter inch (3/4") gravel unless the Town Board approves otherwise.
 - b. The overall minimum width (clearance) along the entire driveway shall be twenty-four feet (24').
 - c. There shall be a minimum sixteen feet (16') of height clearance along the entire driveway.
 - d. The maximum allowable grade of the entire driveway or any segment is thirteen percent (13%).
 - e. Ditches, roadway crowning and culverts which provide acceptable drainage

are required.

- f. Curves in the driveway shall have an inside radius of not less than thirty-six feet (36').
- g. On longer driveways, additional width is required for safe passage of meeting vehicles. The driveway surface shall be twenty-four feet (24') wide for a distance of forty feet (40') every three hundred feet (300').
- h. At the end of the driveway, a turn-around of at least a twenty-five foot (25') radius or some other method (as determined by the Town Board) shall be provided.
- i. Adequate erosion control measures shall be employed during construction. All disturbed ground and side banks shall be seeded promptly to control erosion.
- j. The Town Building Inspector or Town Chairman may require an engineer's plan as a condition of approval based on the characteristics of the site.

B. Existing Driveways:

Commencing one (1) year after the effective date of this Ordinance, existing driveways shall be maintained to the minimum requirements listed below.

- i. The overall minimum width (clearance) along the entire driveway shall be twenty-four feet (24').
- ii. There shall be a minimum sixteen feet (16') of height clearance along the entire driveway.
- iii. Ditches, roadway crowning and culverts which provide acceptable drainage are required.

(6) **Owner Acquires Responsibility:** The owner of any property which has access to a highway within the Town who has not constructed his drive in the way and manner described herein or who does not maintain such driveway or field drive in such manner shall be responsible for any loss or damages because of the difficulty or impossibility of emergency vehicles gaining access to the property because of such failure or such conditions.

(7) **Joint Driveways:** In addition to the requirements of this Ordinance, applicants for a joint driveway permit must submit with their application a proposed Joint Driveway Agreement. Said agreement must be approved by the Town Board and after approval, recorded with the Rock County Register of Deeds. The Joint Driveway Agreement shall clearly establish responsibility for construction and maintenance of the joint driveway and restrictions on its use.

If a Joint Driveway Agreement is approved by the Town Board, each new home having access shall have a separate driveway permit, i.e. when two homes share a joint driveway, a

driveway permit is required for each home meaning two driveway permits are required.

(8) Application/Permit Provisions:

- A. The Town Board shall approve a form for application for the Town Driveway and Access Permit, which shall be available from and reviewed for completeness by the Town Building Inspector.
- B. The applicant for a Town Driveway or Access Permit shall submit to the Building Inspector a completed application for each with the appropriate fee and with the following attachments:
 - i. Sketch Map. A rough sketch showing the conceptual idea of the project and approximate location and dimensions. 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 or Access Permit will not be granted without the submission of complete supporting documents. The sketch need not be prepared by a surveyor but shall be approximately to scale and shall show dimensions and locations of improvements (if any).
 - ii. 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 or its designee has reviewed the sketch plat, the applicant may be asked to submit an additional preliminary plat or final plat, or both.
 - iii. Soil/Slope Analysis.
 - iv. Copy of the legal documents by which title to the property is held.
 - v. Construction Plan or Highway Access Plan (if required).
 - vi. Aerial Photo/Site Analysis (if required).
 - vii. Highway Access Location Plan (if required).
 - viii. Joint Driveway Agreement (if applicable)
 - ix. Other Documents. The Town Board or its designee may require additional documents to be attached to the Driveway or Access Permit Application, including other Highway Access Permits required by the county or state for county and state highways.
- C. Procedures for the evaluation of the Town Driveway or Access Application by the Town Board, including any required site inspection of the proposed driveway, public hearing, and town board meetings, are as follows:

- i. Approval Required:
No person shall establish or construct a driveway or field drive without first filing an application and obtaining the appropriate permit from the Town Board pursuant to this Ordinance.
- ii. Procedure:
 - a. Any person requesting a permit shall submit a written application and the items specified herein to the Building Inspector.
 - b. The Town Building Inspector shall make arrangements with the applicant to view the proposed location. The site visit is for purposes of determining compliance with the provisions of this Ordinance.
 - c. The Town Building Inspector shall inspect the site to determine the appropriate location of the driveway to ensure safety and compliance with this Ordinance.
 - d. The Town Building Inspector who viewed the site shall recommend to issue or deny the permit and notify the Town Clerk to include his report on the agenda of the next regularly scheduled Town Board meeting.
 - e. Upon receiving the report of the Town Building Inspector who viewed the site, the Town Board shall move approval or denial of the permit by resolution of the Board.

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

- i. The inconsistency or nonconformance of the proposed driveway or highway access with this Ordinance, with any existing town comprehensive plan, master plan, or land use plan, with town ordinances, rules, regulations, or plans or any applicable County, State, or Federal laws, ordinances, rules, regulations, or plans.
- ii. 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.
- iii. The application as filed and submitted is incomplete or contains false material as determined by the Town Board.
- iv. Alternate driveway locations, bridges, culverts, and highway access locations will be safer for persons by motor vehicle ingressing or egressing on the driveway and access point.
- v. Alternate driveway locations or alternative highway access locations will preserve or better protect agricultural land in the Town.
- vi. 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 or near the proposed driveway.

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

- E. In the event of a denial of a Town Driveway Permit Application or Town Highway Access Permit Application, the Town Board or its designee 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 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. If the Town Board denies two consecutive applications for a Town Driveway or Highway Access Permit on the same parcel, no subsequent re-application for a permit of the same type that was denied for that parcel will be considered within six (6) months of the second denial.

- G. The Town Driveway Permit or Access Permit are effective for twelve (12) months from the date of issuance. The permit shall expire after twelve (12) months unless renewed.

- H. The 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 and fee must be submitted and approved.

- I. The applicant shall notify the Building Inspector within 30 days after completion of the construction, reconstruction, rerouting, or alteration of the driveway or highway access. The Town Building Inspector will conduct an inspection of the driveway or highway access to ensure full compliance with all of permit conditions and provisions of this Ordinance. Upon a determination of completeness and compliance, the Town Board or its designee shall issue the appropriate permits.

- J. No building permit for any construction of buildings or structures will be issued by the Town until the driveway or highway access has a minimum 6" layer of 3" rock according to the specifications of the permit as issued in this Ordinance.

- K. An application fee that is non-refundable in an amount determined by a resolution of the Town Board will be charged for each permit application.

- L. The Town Board, or its designees, shall have the right of inspection onto land for the purpose of inspecting existing or proposed driveways to determine if the driveways will allow for the safe and timely travel by emergency vehicles or vehicles of the general public.

- M. No construction, reconstruction, rerouting, or alteration of a driveway nor construction of a highway access onto a town highway may commence until all of the following conditions are met:
 - i. The driveway construction plan or highway access plan, if required, is approved

by the Town Board.

- ii. A Town Driveway Permit is issued by the Town, and if applicable, a Town Highway Access Permit is issued by the Town.
 - iii. When applicable, any other necessary approvals are obtained from Rock County or the State of Wisconsin.
 - iv. 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.
- N. The preparation of a driveway construction plan or a highway access plan does not guarantee the approval of a Town Driveway or Access Permit by the Town Board.
- O. As a condition of any Town Driveway or 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, culvert, or highway access location is fit or safe for any purpose or that they are in compliance with the Ordinance or any State or County laws or Ordinance.

(9) Construction Plan or Highway Access Plan

- A. The Town Board may in writing require a driveway construction plan or highway access plan prior to any proposed driveway or highway access construction, reconstruction, rerouting, or alteration. A driveway construction plan is required for any of the following unless the requirement is waived by the Town Board in writing:
- i. Construction of a driveway or segment of a driveway that requires the disturbance of land with a slope of more than 16 %.
 - ii. A driveway or segment of a driveway that requires a retaining wall or other special erosion control measure as determined by the Town Board Town Building Inspector or other designated officer and prior to any permit issuance.
 - iii. A driveway that crosses a waterway or has the potential to significantly alter existing drainage patterns or quantity of runoff.
 - iv. When construction or modification of the driveway necessitates construction or improvement of a bridge or culvert.
 - v. When the Town Board in writing requests a driveway construction plan or town highway access plan.

- a. A highway access plan is required for all sections of any proposed driveway by the applicant that will enter onto a town highway.
- b. If required by the Town Board or its designee, a driveway construction plan or highway access plan will include a scale plan showing all of the following:
 - vi. Location. The precise location of the driveway or the segment of the driveway for which the driveway construction plan is required, including the width and length of the driveway.
 - vii. Slope. A profile of the driveway route before and after construction showing a maximum finished driveway slope of 13%.
 - viii. Retaining Walls. The location and structure of any retaining walls.
 - ix. Bridges. The location, size, and design calculations of any bridges.
 - x. Culverts. The location, size, and design calculations of any culverts.
 - xi. Cross-section. Typical cross sections of the driveway.
 - xii. Erosion Control. Required mulching, matting, or other erosion control.
 - xiii. Storm Water Management. Drainage methods engineered for the particular surface type, including location and dimensions of ditches, proper grading technique, projected water handling capability, and water loads at the point of access to the public highway.
 - xiv. Other Access Points. The location of any other access points onto the town highway within one mile of proposed access point.

(10) **Existing Driveways and Field Drives:** When washing or other conditions created by existing driveways or field drives become a potential hazard to a public highway, the Town Board shall notify the owner(s) in writing of such condition(s). Any property owner failing to correct such condition(s) within ten (10) days after notice by the Town Board 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 by law.

(11) **Penalty Provision:** Any person, partnership, corporation, or other legal entity that fails to comply with the provisions of this Ordinance shall, upon conviction, pay a forfeiture of not less than \$50 not more than \$400, plus the applicable surcharges, assessments, and costs for each violation. Each day a violation exists or continues shall be considered a separate offense under this Ordinance. In addition, the Town Board may seek injunctive relief from a court of record to enjoin further violations.

(12) **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 provisions or application, and

to this end, the provisions of this Ordinance are severable.

- (13) **Effective Date:** Following passage by the Town Board, this Ordinance shall take effect the day after the date of publication or posting as provided by sec. 60.80, Wis. Stats.
ADOPTED this 3rd day of August, 2006.

(Town Board Chairperson)
Kendall Schneider, Chairman

Date

Attest:

(Town Clerk)
Linda O'Leary, Town Clerk

Date

[Published / Posted] this _____ day of _____, 20 ____.