

ORD. 2011-04 DRIVEWAY & HIGHWAY ACCESS PERMIT

(Revision of ORD. #1985-119, 1995-002, 2006-001 & 2006-06 Acceptance of Private Roads)

STATE OF WISCONSIN
Town of Dunn/Dunn County

SECTION I – TITLE AND PURPOSE

The title of this ordinance is the Town of Dunn Driveway & Highway Access Permit Ordinance. The purpose is to regulate the town road right-of-way portion of the driveway and recommend driveway construction standards for public health and safety reasons in the Town of Dunn.

SECTION II – AUTHORITY

The town board has the specific authority under ss. [66.0425](#) and [86.07](#), Wis. stats., to adopt a town highway 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 driveways and highway 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. "Road Right-of-Way" means that area which is thirty-three (33) feet from the center line of the town road.

F. "Town" means the Town of Dunn, Dunn County, Wisconsin.

G. "Town board" means the board of supervisors for the Town of Dunn, Dunn County, Wisconsin, and includes any designee of the board authorized to act for the board.

H. "Town chairman/or designee" means the chairman of the Town of Dunn or his/her designee, Dunn County, Wisconsin.

I. "Wis. stats." means the Wisconsin Statutes, including successor provisions to cited statutes.

SECTION V - SUBDIVISION AND NUMBERING OF THIS ORDINANCE

This ordinance is divided into sections designated by uppercase Roman numerals. Sections may be divided into subsections designated by uppercase letters. Subsections may be divided into paragraphs designated by numbers. Paragraphs may be divided into subdivisions designated by lowercase letters. Subdivisions may be divided into subdivision paragraphs designated by lowercase Roman numerals. Reference to a "section," "subsection," "paragraph," or "subdivision" includes all divisions of the referenced section, subsection, paragraph, or subdivision.

SECTION VI – 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 & Highway Access Permit to be issued by the town board.
- B. No person may establish or construct a driveway or reconstruct, reroute, or alter any highway access onto a town highway without first obtaining a Town Driveway & Highway Access Permit to be issued by the town board.
- C. Any person prior to and at the time of seeking a Town Driveway & 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.

SECTION VII – 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 & Highway Access Permit is required shall meet all of the following minimum requirements. No permit shall be issued unless the materials submitted as required under Sections VIII and IX demonstrate compliance with the requirements of this section: SEE APPENDIX A.

SECTION VIII – APPLICATION AND PERMIT PROVISIONS

- A. The town board shall approve a form for application for both the Town Driveway & Highway Access Permit, which shall be available from the town chairman.
- B. The applicant for a Town Driveway & Highway Access Permit shall submit to the town chairman a completed application for each with the appropriate fee and with 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 chairman or designee prior to the preparation or submission of the other supporting documents in order for the town chairman or designee to provide initial comments and review of the proposal. However, formal approval for a Town Driveway & Highway Access Permit will not be granted without the submission of complete supporting documents.

2. Town Road Standards: SEE APPENDIX A.

- D. The town chairman or designee shall approve or deny every Town Driveway & Highway 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 & Highway Access 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 material as determined by the town chairman or designee.
 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 locations or alternative highway 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.
- E. In the event of a denial of a Town Driveway & Highway Access Permit Application, the town chairman or designee shall recite in writing the particular facts upon which it bases its denial of the permit. The town chairman or designee shall also afford the applicant an opportunity to review the decision and present evidence at a Town Board meeting.
- F. The Town Driveway & Highway Access Permit is effective for 12months from the date of issuance.
- I. The applicant shall notify the town chairman 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.
- J. No building permit for any construction of buildings or structures will be issued by the town until the driveway or highway access is constructed, reconstructed, rerouted, or altered according to the specifications of the permit as issued and this ordinance.
- K. An application fee that is nonrefundable in an amount determined by a resolution of the town board will be charged for each permit application as follows:
1. Town Driveway & Highway Access Permit Fee = \$50.00

SECTION IX – CONSTRUCTION PLAN OR HIGHWAY ACCESS PLAN

Permit applies from town road thru town road right-of-way in driveway.

- A. The town chairman or designee 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:
 - 1. Construction of a driveway or segment of a driveway that requires the disturbance of land with a slope of more than four percent (4%).
 - 2. 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.
 - 3. A driveway that crosses a waterway or has the potential to significantly alter existing drainage patterns or quantity of runoff.
 - 4. Construction or modification of the road-right-of-way portion of a driveway that necessitates construction or improvement of a bridge or culvert.
- B. 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:
 - 1. The driveway construction plan or highway access plan, if required, is approved by the town chairman or designee.
 - 2. A Town Driveway & Highway Access Permit is issued by the town.
 - 3. When applicable, any other necessary approvals are obtained from Dunn County or the State of Wisconsin.
 - 4. The town chairman or designee shall, when applicable, will recommend 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.
- E. The preparation of a driveway construction plan or a highway access plan does not guarantee the approval of a Town Driveway & Highway Access Permit by the town board.
- F. As a condition, the driveway and highway access shall be constructed and maintained by the owner or occupant to ensure safe, timely, and proper access and travel by emergency vehicles.
- G. The approval of a Town Driveway & Highway 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 the permit to determine that a driveway, bridge, culvert, or highway access location 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.
- H. The approval of the Town Driveway & Highway Access 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 X – 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 \$100 nor more than \$300, plus the applicable surcharges, assessments, and costs for each violation. Each day a violation exists or continues constitutes a separate offense under this ordinance. In addition, the town board may seek injunctive relief from a court of record to enjoin further violations.

SECTION XI – 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 XII – 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 _____ day of _____, 2011.

Don Heit, Chairman

Dennis Weber, Supervisor 1

John Miller, Supervisor 2

Attest:

Vicki Price, Clerk

Dated