

WIS. Stat. 86.07 Sec. DRIVEWAY AND HIGHWAY ACCESS PERMIT
ORDINANCE.

STATE OF WISCONSIN
TOWN OF OCONTO FALL
OCONTO COUNTY

SECTION 1 –TITLE/PURPOSE

The purpose of this Ordinance is to regulate the establishment, construction, improvement, modification or reworking of a driveway to assure that the site, method of construction, and conservation practices used will promote the public health, safety, and general welfare of the community, and to enforce the goals and policies set forth in the Town of Oconto Falls land use plan or comprehensive plan, 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 S.60.07, 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

The town board, by this ordinance on the proper notice with a quorum and roll call vote by a majority of the town board present and voting, provides the authority for the town to require and permit certain driveways and highway access locations in the town.

SECTION IV - DEFINITIONS

In this ordinance

- A. "Prime or productive agricultural or forestry land" means any land that is being farmed or kept in forestry, including cropland and pastureland, or land that is included in the 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 service to a residence, business, recreational site, or, other similarly appropriate uses.
- C. "Emergency vehicle" means any fire, police, ambulance, or first responder vehicles used in emergency or hazard activities in the town.
- D. "Impacted landowner" means an owner of real estate that is provided vehicular access to a public highway by a driveway determined to be unsafe.
- E. "Town" means the Town of Oconto Falls, Oconto County, Wisconsin.
- F. "Town Board" means the board of supervisors for the Town of Oconto Falls, Oconto 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 Oconto Falls, Oconto County, Wisconsin.
- H. "Wis. Stats." means the Wisconsin Statutes, including successor provisions to cited statutes.
- I. "Vehicle" means any item used to carry or transport something.

SECTION V – DRIVEWAY AND CULVERTS

A. Driveways and Culverts Required.

No person, partnership, company, or corporation shall, by means of a vehicle, enter or cause to enter any parcel or parcels of land from any Town road or highway, unless a culvert and gravel driveway has been provided for said parcel or parcels of land, unless deemed unnecessary by the Town board. If a field is entered where no driveway is designated and there is damage to the road, the owners of the property are responsible for repair of said damage to the road.

B. Driveway/Culvert Permit Required.

No person shall in the right-of-way construct, repair or reconstruct from original design any driveway or install any culvert without having first obtained a permit from the Town, the fee for which shall be determined by resolution of the Town Board. Such permit shall be issued in a timely manner upon a form provided by the Town.

C. Installation requirements.

All driveways installed, altered, changed replaced or extended shall meet the following requirements and must be approved as to location by the Town Board.

1. Openings for vehicular ingress and egress shall be:
 - a. For residential properties, a minimum of 24 feet at roadway and 20 feet at the right-of-way.
 - b. For agricultural properties, a minimum of 35 feet at roadway and 20 feet at right-of-way.
 - c. For commercial/industrial properties, a minimum of 50 feet at roadway and 35 feet at right-of-way.
2. No driveway shall be closer than 75 feet to an intersection of two streets. At street intersections, a driveway shall not provide direct ingress or egress to or from the street intersection area and shall not occupy areas of the roadway deemed necessary by the Town for effective traffic control or for highway signs or signals.
3. Driveways must be located at least 6 feet from all lot lines, and extensions thereof.
4. Areas between driveway openings shall be provided with a minimum of 12 feet between all driveway culverts.
5. Any overhead obstruction shall be at least 14 feet high and set back at least 33 feet from the centerline of the road way.
6. No driveway apron will extend out into the street farther than the near edge of the town road pavement and under no circumstances shall such driveway extend above any road pavement. All driveway entrances

and approaches shall be constructed as not to interfere with the drainage of streets, side ditches or roadway areas or with any existing structure on the right-of-way.

7. Driveways shall in all cases be placed wherever possible as not to interfere with utilities in place. Any costs of relocating utilities shall be the responsibility of the property owner. Approval of the Town is necessary for relocating utilities.
 8. Driveway pavement materials within the town right-of-way shall be compatible with adjacent Town pavement material, limiting it to crushed gravel, crushed rock and bituminous products. Concrete pavements shall end a minimum of 10 feet from the Town road pavement. Oil or petroleum products shall not be used in right-of-way areas where it can be tracked onto and effect the Town highway. The bottom course of the driveway must be constructed of a maximum of 4" breaker rock, a minimum of 6" thick, with a minimum of 6" of crushed gravel on top. In no case shall the granular material or subsequent permanent surfacing be constructed higher than the adjacent highway pavement.
 9. The maximum number of driveways opening for vehicular ingress and egress permitted for lots with a continuous road frontage of less than 200 feet shall be one and for lots with continuous road frontage of 300 feet or greater may be two if the driveway does not meet an arterial road (those with a greater than 66 feet right-of way). The number of driveway openings for agricultural parcels upon which actual agricultural activities are practiced must be reasonable as determined by the Town Board.
 10. All culverts shall be 16 inches in diameter or larger unless specified by a Town Officer and as follows:
 - a. Minimum length shall be 24 feet plus endwalls for residential, 50 feet plus endwalls for others.
 - b. Distance between culverts ends is 12 feet.
 11. No shrubbery or trees 16 feet from center of driveway within the road-right of way
- D. Regulation for Construction of driveway to Service More Than One Parcel of land.
1. Approval required. No person, partnership, company or corporation shall construct or permit to be constructed with in the Town any driveway arranged or planned to serve more than one parcel of land used for residential purposes, unless approval shall first be obtained from the Town Official, following review and recommendation (location, width and general plans) for such driveway
- E. Structures and Construction in Town Right-of-Way Regulated.
1. Permit Required. No person, persons, partnerships, company or corporation shall erect or install any structure, fence, sign, wall, pavement or other vehicle access nor perform or arrange for any construction within or upon the Town highway right-of-way without

first obtaining a written permit from the Town with the exception of a mailbox and boxes installed for the delivery of newspapers.

2. Mailboxes. Mailboxes and newspaper boxes shall be installed in accordance with U.S. Postal Service regulations (available at the Post Office). However; landowners are encouraged to follow the recommendations of Wisconsin Transportation bulletin #14 referring to mailbox safety. Mailbox supports and attachments shall be strong enough to withstand the pressure and thrust of plowed, wet snow, but shall not be so formidable and massive as to damage vehicles and cause serious injuries to people who may strike them. Mailboxes and newspaper boxes must be placed on the same side of the road. The shoulder used by mail and newspaper carriers is to be maintained by the landowner.
3. Existing Structures and Obstructions. Any existing structure, sign, fence, wall, pavement or other obstruction (including trees and agricultural products) which, in the judgment of the Town, will prevent proper snow removal from the pavement and shoulders or mowing of ditches of the Town highway, shall be removed by the owner of the property within fifteen (15) days of receiving written notice from the Town. If the owner does not remove said structure or obstruction, within the allotted time, the Town shall remove or make arrangements to have the obstruction removed and the expense of removal shall be charged to the property owner as a special assessment, after notice and hearing.

SECTION VI – COVERAGE

- A. No person shall establish or construct a driveway or reconstruct, or alter the existing slope of any existing driveway or any town or other highway or highway right-of-way in the Town without obtaining a Town Driveway Permit to be issued by the Town Board.
- B. No person shall establish or construct a driveway or reconstruct, reroute, or alter any highway access onto a town highway without first obtaining a Town Highway Access Permit to be issued by the Town Board.
- C. 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.
- D. 1. Commencing 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 to 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 CH. 985, Wis. Stat. of the public hearing.
3. The 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 twenty (20) days of the making of the written determination and at least ten (10) days prior to the hearing date. The notice shall include the names of all potential impacted landowners and the location of the subject driveway in 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 condition of the driveway. Any potentially impacted landowner maybe represented by legal council 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 that the Town Attorney seek a court order providing any of the following:
 - a. 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 drive way.
 - b. 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 reasonable time specified by the Town Board and if the driveway is not so reconstructed or repaired by the date specified, the Town Board may have the driveway repaired or reconstructed and the cost assessed as a special assessment under its police power under SS. 66.0701 and 66.0703. Wis. Stats. against the land.
 - 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 guest of the owner of the land.

SECTION VII- APPLICATION/PERMIT PROVISION

- A. A Town Official shall approve a form for application for both the Town Driveway Permit and the Town Highway Access Permit, which shall be available from the Town Clerk.
- B. The applicant for a Town driveway Permit or a Town Highway Access Permit shall submit 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. The sketch map may be submitted to a Town Official prior to the preparation or submission of the other supporting documents. However, formal approval for a Town Driveway Permit or Town Highway Access Permit will not be granted without the submission of complete supporting documents.
 2. Highway Access Location Plan (if required by County or State).
 3. Other Documents. The Town Board may require other documents to be attached to the Driveway Permit Application, including a Town Highway Access Permit.
- C. Procedures for the evaluation of the Town Driveway Permit. Application and any required Town Highway Access Permit Application by the Town Official, including any required site inspection of the proposed driveway, public hearing, and Town Board meetings are as follows:
 1. Obtain a copy of the Driveway Ordinance, Driveway Permit and Highway Access permit from the Town Clerk.
 2. Have the Driveway Permit and Highway access Permit filled out and submitted with other required documents to a Town Official two weeks prior to the next Town Board Meeting.
- D. 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 this ordinance, with any existing town comprehensive plan, or land use plan, with town ordinances, rules, regulations, or plans, or any applicable county, state or federal ordinances, rules, regulations or plans.
 2. The driveway, bridge, culvert, or highway access, or any combination, when construction, 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.
 4. Alternative driveway locations, bridges, culverts, and highway access locations will be safer for persons by motor vehicles ingressing or egressing on the driveway and access point.

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 or near the proposed driveway.
 7. The driveway will not provide timely and adequate ingress or 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 shall recite in writing the particular fact upon which it bases its denial of the permit. The Town Board shall also afford the applicant and opportunity to review the Town Board's decision and present evidence at a public hearing after a Class 1 notice of the hearing to the Town Board refuting the determination. Thereafter, the Town Board may affirm, reverse or modify its decision to modify or reverse its initial determination.
 - F. If the Town Board denies two consecutive applications for a Town Driveway Permit or denies two consecutive applications for a Town 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 second denial of either.
 - G. Both the Town Driveway Permit and the Town Highway Access Permit are effective for six (6) months from the date of issuance. Each permit shall expire after six (6) months unless renewed.
 - H. Each permit may be renewed for an additional period of six (6) months. If the driveway or highway access has not been constructed by the end of one six (6) - month renewal period, a new application and fee must be submitted and approved.
 - I. The applicant shall notify Town Board or its agent within thirty (30) days after completion of the construction, reconstruction, rerouting, or alteration of the driveway or highway access. Within thirty (30) days of notification, the Town will 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 or its agent 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 is constructed to the specifications of the permit as issued and 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 Official, or its designees, shall have the right of inspection onto land Pursuant to a warrant issued under Sec. 66.0119. Wis. Stats 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.

SECTION VIII- 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 plans required for any of the following unless the requirement is waived by the Town in writing:
 1. A driveway or segment of a driveway that requires a retaining wall or other special erosion control measure as determined by the Town Board, building inspector or other designated officer and prior to any permit issuance.
 2. A driveway that crosses a waterway or has the potential to significantly alter existing drainage patterns or quantity of run off.
 3. When construction or modification of the driveway necessitates construction or improvement of a bridge or culvert.
 4. When the Town Board in writing requests a driveway construction plan or town highway access plan.
- B. A highway access plan is required for all sections of any proposed driveway by the Applicant that will enter onto a town highway.
- C. If required by a Town Official or its designee, a driveway plan of construction or highway access plan will include a scale plan showing all of the following:
 1. Location. The precise location of the driveway or the segment of the driveway for which the driveway construction plan is required.
 2. Retaining Walls. The location and structure of any retaining walls.
 3. Bridges. The location, size, and design calculations of any bridges.
 4. Culverts. The location, size and design on any culverts.
 5. Cross-section. Typical cross sections of the driveway.
 6. Erosion Control. Required mulching, matting, or other erosion control.
 7. 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.
 8. Other access Points. The location of any other access points onto the town highway within one mile of proposed access point.
- D. No construction, reconstruction, rerouting, or alteration of a driveway nor construction of a highway access onto the town highway may commence until all the following conditions are met.
 1. The driveway construction plan or highway access plan, if required is approved by a Town Official.
 2. A Town Driveway Permit is issued by the Town.
 3. When applicable, any other necessary approval is obtained from Oconto County or the State of Wisconsin.
 4. The Town Official shall, when applicable, seek review and comment from the fire chief, or deputy, regarding the proposed driveway and

whether such proposed driveway will allow for adequate and timely emergency vehicle access and other equipment access to buildings and structures within the premise.

- E. The preparation of a driveway construction plan or a highway access plan does not guarantee the approval of a Driveway Construction Permit or Town Highway Access Permit by a Town Official.
- F. As a condition of any Town Driveway Permit or any Town Highway Access, 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 Permit or Town Highway Access 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 for emergency vehicles, that public access and travel is authorized, or that the applicant or permittee is in compliance with the 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.
- H. The approval of the Town Driveway Permit, or Town Highway Access Permit application does not establish or commit the Town to future approval if any driveway as a public road or highway in the Town.

SECTION IX- 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 \$100.00 nor more than \$10,000.00, plus the applicable surcharges, assessments, and costs for each violation. Each day a violation exist 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.

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.

The Town Clerk shall properly post or publish the ordinances as required under s.60.80 Wis. Stats.

Adopted the 4th day of Oct, 2006.

Town Board Signatures

Town Clerk Signature

Albert H. H. H. H.
Walter H. H. H.
Ronald Thomson

Seven H. H. H.