

ORDINANCE NO. 13.5

TOWN OF DUNN DANE COUNTY, WISCONSIN

AN ORDINANCE TO PROVIDE FOR THE REGULATION OF DRIVEWAYS IN THE TOWN

Pursuant to sections 60.22(1), 60.22(3), 61.34(1) and 81.01 of the Wisconsin Statutes, the Town Board of the Town of Dunn, Dane County, Wisconsin, does hereby ordain as follows:

Section 1. Driveway Ordinance.

1.01 PURPOSE

The purpose of this Ordinance is to regulate the establishment, construction, improvement, modification, enlargement or the reconstruction (collectively “construction”) of driveways in the Town to assure that the location of the driveway and method of construction will promote the public health, safety, and general welfare of the Town, preserve agricultural land and productivity, and comply with the goals and policies set forth in the Town of Dunn Land Use Plan. For the safety of the general public, the Town shall determine the location, size, use, construction and number of access points to public highways within the Town. This ordinance does not apply to re-surfacing existing driveways.

1.02 DEFINITIONS

- (1) Driveway. A private driveway, road, or other avenue of travel that runs through a parcel of land or that connects or will connect with any public highway, but shall not include any field road lying outside of the right-of-way of a public highway.
- (2) Field Road. A road regularly used only for agricultural purposes or to access agricultural land.
- (3) Town Board. The Town of Dunn Board of Supervisors.
- (4) Town Clerk. Clerk of the Town of Dunn.

- (5) Agricultural Land. Land within the Town of Dunn that has produced or is capable of producing a viable crop.
- (6) Private Road. A road on private property which is accessed by one or more driveways and which provides access to a public highway.
- (7) Public Highway. All public ways and thoroughfares, including without limitation, town roads and county and state highways.

1.03 DRIVEWAY CONSTRUCTION PERMIT REQUIRED

- (1) Permit Requirement. No person or public or private entity shall construct a driveway, road or other access from a property line to a public highway or to a private road without first filing an application for and obtaining a Driveway Construction Permit from the Town.
- (2) Application. Application for a Driveway Construction Permit shall be made in writing to the Town Clerk. The application shall contain a sworn statement that the application is true and accurate. The application shall include the following information:
 - A. A map or diagram identifying the slopes on the property.
 - B. A copy of any erosion control plan required by Dane County.
 - C. A driveway construction plan consisting of a drawing or diagram showing the following information:
 - 1. The length, width and radius of all curves of the driveway.
 - 2. The relationship of the driveway to property lines, structures and existing private roads and public highways.
 - 3. The location and size of any culverts.
 - 4. The slope of the driveway.
 - 5. The location and structure of any retaining walls.
 - 6. A cross section of the driveway.

- D. Any other information relevant to the application that is required by the Town.
- (3) Application fee. The applicant shall pay a non-refundable fee of One Hundred Dollars (\$100) at the time of making the application for a residential Driveway Construction Permit. The fee for access to a field road for agricultural use only is Twenty Dollars (\$20.00).
- (4) Review. Upon the filing of the complete application and application fee with the Town Clerk, the application shall be reviewed in a reasonable amount of time as follows:
- A. The Public Works Foreman may issue the Driveway Construction Permit or, if the Public Works Foreman in his discretion determines that the application presents issues that should be resolved by the Plan Commission and Town Board, schedule a meeting on the application before the Town Plan Commission.
 - B. If requested by the Public Works Foreman, the Town Plan Commission shall hold a meeting on the application.
 - C. After the Plan Commission holds the meeting on the application, it shall recommend approval, conditional approval, denial or tabling of the application.
 - D. Once the Plan Commission has made a recommendation on the application, the Town Board shall consider the application and, at its sole discretion, approve, conditionally approve, or deny the application. If the Town Board approves the application, the Public Works Foreman shall issue a Driveway Construction Permit. If the Town Board conditionally approves the application, the Public Works Foreman shall issue a Driveway Construction Permit once the conditions of the approval have been fulfilled. If the Town Board denies the application for a Driveway Construction Permit, it will not consider a substantially similar application from the applicant for a period of three months from the date of the denial.
- (5) Permit Period. The Driveway Construction Permit is effective for 12 months from the date of issuance. The permit shall expire after 12 months unless renewed.

- (6) Renewal. The Driveway Construction Permit may be renewed for one additional 12 month period by the Town Board. If the driveway has not been constructed by the end of this period, a new application must be submitted and approved.
- (7) Driveway Inspection. The holder of the Driveway Construction Permit shall notify the Town Public Works Foreman within 30 days of completion of the construction. Within 30 days of notification, the Town Public Works Foreman shall conduct an inspection of the driveway to ensure full compliance with all of the provisions of this Ordinance.
- (8) Building Permits. No Building Permit for new residential construction shall be issued until a Driveway Construction Permit has been approved.

1.04 SPECIFICATIONS FOR THE CONSTRUCTION OF DRIVEWAYS

- (1) Slope. No land with a slope of more than 25% measured over a minimum distance of 20 feet shall be disturbed for the construction of the driveway. The maximum final slope of the driveway or any portion of the driveway shall be no more than 13%.
- (2) Width, Rise, and Ditch Distance. The driveway shall be constructed with a minimum of a finished surface of 14 feet in width, with a minimum of 4 feet side slope on each side, with a maximum slope of 4%. Where there are ditches on both sides of a driveway, there shall be a minimum of 20 feet from the center of the ditch on one side of the driveway to the center of the ditch on the other side. The center of each ditch must be at least 10 feet from the centerline of the 14 foot road.
- (3) Culverts. Each driveway shall have a culvert at least 18 inches in diameter with end walls at the ditch line where the driveway meets the public highway or private road, unless a larger culvert is required by the Town Public Works Foreman. The Town Public Works Foreman shall approve the type and length of the culvert.
- (4) Juncture with Public Road. A length of driveway of a minimum of 24 feet shall have a maximum of 5% slope at the point where the driveway enters onto a highway or private road. A slight dip across the drive shall be placed just before the culvert at the entrance to a public highway or private road to prevent debris from washing onto the public highway or private road.

- (5) Drainage. Ditches along the right-of-way, roadway crowning, and culverts shall be provided by the property owner for acceptable drainage. The driveway shall be planned, constructed, and maintained in a manner that prevents diversion of surface water onto the public road and the lands of other persons.
- (6) Side Banks. The side banks shall be graded to a slope of no more than 1 foot of vertical rise in each 4 feet of horizontal distance. (Such a rise equals 25% slope.) The side banks shall be constructed using earthen materials. Excluded from this grading requirement are driveways for which retaining walls and/or other erosion control measures are installed as approved by the Town Board.
- (7) Radius of Curves. Curves in the driveway shall have an inside radius of no less than 36 feet.
- (8) Erosion Control. Once the construction of the driveway has begun, all specified erosion controls, including retaining walls, ditching, culverts, crowning, mulching, matting, and bank seeding, shall be begun immediately. For winter construction, erosion alternatives must be implemented immediately until specified controls are available.
- (9) Substrata. The driveway must have at least 4 inches of 3- to 4-inch rock on the roadbed, covered with 2 inches of 3/4-inch gravel. If it can be shown there is a suitable base, the provision requiring 4 inches of 3- to 4-inch rock may be modified or waived by the Town Public Works Foreman.
- (10) Clearance for Emergency Vehicles. An area 20 feet in width and 14 feet in height shall be cleared along the entire driveway in order to permit the safe passage of emergency vehicles to the structures served by the driveway.
- (11) Turnaround. The driveway must have a perpendicular turnaround or at least a 50 foot turning radius when determined necessary by the Public Works Foreman.
- (12) General Design. A driveway shall be of such width and so located that all of such driveway is within the limits of the public highway or private road fronting on the property served. Driveways shall not provide direct ingress or egress to or from any street intersection area and shall not encroach upon or occupy areas of the public highway required for effective traffic control or for street signs or signals. A driveway shall be so located and constructed that vehicles approaching or using it shall have adequate sight distance along the public highway or private road as

determined by the Public Works Foreman. Driveway approaches shall be at least twenty (20) feet apart and there shall be at least ten (10) feet from the edge of the driveway to the property line except by special permission from the Town Board, and driveways shall in all cases be placed wherever possible as not to interfere with utilities in place.

(13) Number.

A. The number of driveways allowed to serve an individual residential or commercial property shall be a maximum of two (2), subject to paragraph B, below, provided that when two (2) driveways are utilized, there is also at least 180 feet of total frontage on the public highway or private road from which the driveways serve the parcel.

B. There shall be allowed one (1) driveway for the first acre of the served parcel, and one (1) additional driveway for each additional acre or part thereof, up to a maximum of two (2). For corner parcels, or parcels abutting more than one public highway or private road, access shall be allowed from only one of the public highways or private roads abutting the parcel.

C. Where two (2) driveways serve a parcel, such driveways shall be located no closer than 75 feet from centerline to centerline, and at least 10 feet from the edge of the driveway to the property line.

(14) Island Area. The island area between adjacent driveways in the public highway right-of-way shall constitute a restricted area and may be filled in and graded only as provided in this Ordinance.

(15) Drainage. The surface of the driveway connecting with public highway cross sections shall slope downward and away from the highway shoulder a sufficient distance to preclude ordinary surface water drainage flowing onto the public highway roadbed. No driveway apron shall extend out into the public highway farther than the road edge or face of the curb, and under no circumstances shall such driveway apron extend into the gutter area where there is curbing. All driveway entrances and approaches shall be so constructed that they shall not interfere with the drainage of public highways, side ditches, or roadside areas or with any existing structure on the right-of-way.

- (16) Restricted Areas. The restricted area between successive driveways may be filled in and graded only when the following requirements are complied with:
- A. The filling or draining shall be to grades approved by the Town Engineer and, except where highway drainage is by means of curb and gutter, water drainage of the area shall be directed away from the public highway roadbed in a suitable manner.
 - B. Culvert extensions under the restricted area shall be of the same size and of equivalent acceptable material as the culvert under the driveway.
 - C. Where no public highway side ditch separates the restricted area from the public highway roadbed, permanent provision may be required to separate the area from the public highway roadbed to prevent its use for driveway or parking purposes by construction of a border, curb, rail or posts as may be required by the Town Board.
- (17) Relocation of Utilities. Any costs of relocating utilities shall be the responsibility of the property owner with approval of the Town Board necessary before any utility may be relocated and the driveway installed.
- (18) Variances. Any of the above requirements may be varied by the Town Board in such instances where the peculiar nature of the property or the design of the public highway may make the rigid adherence to the above requirements impossible or impractical.
- (19) Prohibited Driveways and/or Filling.
- A. No person shall place, construct, locate in, or cause to be placed, constructed or located in, any obstruction or structure within the limits of any public highway, except as permitted by this Ordinance. As used herein the word "structure" includes private driveways, a portion of which extends into any public highway, and which is in non-conformance with this Ordinance.
 - B. The grade of that portion of any driveway located within the limits of any public road, highway shall be such as shall meet the grade of the existing public roadway at its edge and not cause an obstruction to the maintenance or clearing of such public highway.

- C. Drainage from driveways shall run into adjacent ditches and not onto the public highway pavement.
 - D. Filling of ditches and/or culverts located within a public right-of-way is prohibited without written approval from the Town.
 - E. The placement of lawn sprinkler pipes in a public highway right-of-way is prohibited.
- (20) Costs. All costs of driveway construction shall be paid by the holder of the Driveway Construction Permit.
- (21) Waiver of Specifications. Any specification in this Ordinance may be waived or modified by the Town Board if it determines the specification would impose an unnecessary hardship. Any request by an applicant for a waiver or modification of any provision in this Ordinance must accompany the initial application and must state the reason for the request.
- (22) Town Approval. The Town's approval of a Driveway Construction Permit application does not constitute a determination that the driveway is safe, suitable, for use or otherwise passable for the public. No person may rely on the issuance of a permit to determine that a driveway is fit for any purpose,

1.05 EXISTING DRIVEWAYS

- (1) Hazardous Conditions. When washing or other conditions created by existing driveways or field roads obstruct or become a potential hazard to a public highway or private road, the Town Board shall notify the property owner of the conditions. Any property owner failing to correct such condition within 30 days after notice by the Town Board shall be subject to the penalties described in the penalty section of this Ordinance.
- (2) Conform to Ordinance. In the event that a residential dwelling located on property served by an existing driveway is reconstructed or razed and a new dwelling is constructed, the existing driveway shall be made to conform to the requirements of the ordinance.

1.06 FIELD ROADS

No field road may be used for non-agricultural purposes unless the field road has been approved as a driveway under the purposes of this Ordinance. Field Roads shall access public highways only at locations approved by the Town Board.

1.07 PENALTIES

Forfeitures. Should a driveway be constructed or modified in violation of the provisions of this Ordinance, or create a hazard that is not corrected within 30 days of notification, the owner(s) of the land through which the driveway passes shall pay a forfeiture of \$100.00 per violation. Each day that the violation continues to exist shall constitute a separate offense. A driveway that is constructed in violation of this Ordinance constitutes a public nuisance and may be enjoined.

1.08 AGRICULTURAL PRODUCTIVITY

No driveway shall be approved in the Town of Dunn if the Town Board finds that the driveway will adversely affect productive agricultural land, unless the Town Board finds that the driveway is necessary to enhance the agricultural productivity of an adjacent parcel. Under any circumstance, the Town Board shall approve a driveway with the least impact on agricultural land.

Section 2. Severability. If any provision of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of any other provisions of this Ordinance.

Section 3. Effective Date. This Ordinance shall take effect the day after passage and publication as required by law.

The above and foregoing Ordinance was duly adopted by the Town Board of the Town of Dunn, Dane County, Wisconsin, at its regular meeting held on October 5, 1999. The vote was as follows: 2 in favor; 0 opposed; and 1 not voting.

TOWN OF DUNN
Dane County, Wisconsin

By _____
Edmond P. Minihan, Town Chair

Attest _____
Rosalind Gausman, Town Clerk/Treasurer

APPROVED: _____

PUBLISHED: _____