

ORDINANCE 2021- 01

TOWN OF WEBB LAKE

ORDINANCE TO REGULATE DRIVEWAYS

SECTION I- TITLE AND PURPOSE

The title of this ordinance is the Town of Webb Lake Driveway Ordinance. The purpose is to regulate, for public health and safety reasons, establishment, modification, and reconstruction of private driveways, to assure that the methods of construction and modification practices used in any driveway will protect the public health, safety and general welfare of persons in the Town of Webb Lake and to limit and regulate highway access by motor vehicles to any town road or 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 highway access permit ordinance, and has the general authority under its village powers under s60.22, 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

- 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 road or highway, and will provide vehicular access from the road or 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 road or highway by a driveway determined to be unsafe.
- D. "Town" means the Town of Webb Lake, Burnett County, Wisconsin.
- E. "Town board" means the board of supervisors for the Town of Webb Lake, Burnett County, Wisconsin, and includes any designee of the board authorized to act for the board.
- F. "Town clerk" means the clerk of the Town of Webb Lake, Burnett County, Wisconsin.
- G. "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 alter any driveway access unto a town road or highway without first obtaining a Town Highway Access Permit to be issued by the town board.
- B. Any person prior to and at the time of seeking a Town Highway Access Permit must own or have a legal interest in and current legal access to the land to which the permit will apply.
- C.
 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 use of any existing driveway on the landowner’s land for general public 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 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 dwelling 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 the 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 driveway in a proper manner and in a reasonable time specified by the court and that if the driveway is not 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 VII – SPECIFICATIONS

Commencing on the effective date of this ordinance for new driveways being constructed, all driveways in the town for which a Town Highway Access Permit is required under Section VI 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:

- A. All driveways must have a minimum of 25 feet width at the entrance and 20 feet width throughout the driveway. The 20 feet width must be free of trees, stumps, rocks and brush.
- B. The driveway must have a minimum height clearance of 18 feet.
- C. Driveways exceeding 150 feet in length must provide an adequate turnaround that will accommodate a 30 foot long fire truck.
- D. If a circle drive is constructed, it must have a radius of no less than 45 feet to the centerline.

SECTION VIII – APPLICATION AND PERMIT PROVISIONS

- A. The town board shall approve a form for application for the Town Highway Access Permit which shall be available from the town clerk.
- B. The applicant for a Town Highway Access Permit shall submit to the town clerk a completed application with the appropriate fee and with 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 submission of the application in order for the town board to provide initial comments and review of the proposal. However, formal approval for a Town Highway Access Permit will not be granted without the submission of a complete application.
- C. Procedures for the evaluation of the Town Highway Access Permit application by the town board shall occur at a regular or special town meeting.
- D. The town board shall approve or deny an 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 permit 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 or land use plan.
 - c. Town ordinance, rules, regulations, or plans.
 - d. Any applicable county, state, or federal laws, ordinances rules, regulations or plans
 2. The driveway or highway access, when constructed 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 board.
 4. Alternate driveway locations and highway access locations will be safer for persons both using the driveway and persons traveling on the adjacent highway.
 5. Alternate driveway locations or alternate access locations will preserve or better protect more prime or productive agricultural or forestry land in the town.
 6. Alternate driveway locations or alternate access locations will have less negative land use impact on historically, archaeologically, community, public, or culturally significant or environmentally sensitive parcels of land adjacent to 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 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 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 Highway Access Permit on the same parcel, no subsequent reapplication for a permit that was denied for that parcel will be considered within 6 months of the second denial.
- G. The Town Highway Access Permit is effective for 12 months from the date of issuance. Each permit shall expire after 12 months unless renewed.
- H. Each permit may be renewed for an additional period of 6 months. If the driveway 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 town road foreman within 30 days after completion of the construction or alteration of the driveway or driveway access. Within 30 days of notification, the town shall conduct an inspection of the driveway and highway access to ensure full compliance with all of the permit conditions and provisions of this ordinance.
- J. An application fee that is nonrefundable in an amount of \$50 will be charged for the permit application and inspections.
- K. The town board, or its designees, shall have the right of inspection onto the land pursuant to 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 travel.

SECTION IX – CONSTRUCTION AND 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 or alteration.
- B. A highway access permit is required for all sections of any proposed driveway by the applicant that will enter onto a town road or highway.
- C. If required by the town board, a highway access plan will include a scale plan showing the following:
 - 1. Location. The precise location of the driveway, including width and length of the driveway.
 - 2. Culverts. The location, size, and design material of any culvert.
 - 3. Erosion Control. Required mulching, matting, or any other erosion control.
 - 4. Storm Water Management. Drainage methods for the driveway and water loads at the point of access to the town road or highway.
- D. No construction or alteration of a driveway nor highway access onto a town highway may commence until all of the following conditions are met:
 - 1. The highway access plan is approved by the town board.
 - 2. A Town Highway Access Permit is issued by the town board.
 - 3. When applicable, any other necessary approvals are obtained from Burnett County or the State of Wisconsin.
 - 4. The town board shall, when applicable, seek review and comment from the local fire chief regarding the access of emergency vehicles to the proposed driveway.
- E. The preparation of a highway access plan or application does not guarantee the approval of a Town Highway Access Permit by the town board.
- F. As a condition of any Town Highway Access Permit, the driveway access shall be constructed and maintained by the owner to ensure safe, timely and proper access and travel by emergency vehicles.
- G. The approval of a Town Highway Access Permit 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
- H. The approval of the Town 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.

TOWN HIGHWAY ACCESS APPLICATION

Applicant Name _____

Address _____

City, State, ZIP _____

Phone Number _____ Cell Number _____

Driveway Information (Indicate on plan)

Road Name _____

Section Number _____

Road Access Location _____

Closest Fire Number _____ New Fire Number (if any) _____

Signature _____ Date _____

Plan

Approved _____ Denied _____ Signature _____ Date _____