

**TOWN OF SMELSER
GRANT COUNTY, WI**

DRIVEWAY ORDINANCE

1.01 PURPOSE

The purpose of this Ordinance is to regulate the establishment, construction, improvement, modification, or the reworking of a driveway that changes the existing topography of the land to assure that the site, method of construction, and conservation practices to be used will promote the public health, safety, and general welfare of the community, preserve agricultural land and productivity, protect natural and cultural resources, and enforce the goals and policies set forth in the Town of Smelser Comprehensive Plan.

1.02 JURISDICTION

Jurisdiction of these regulations shall include all driveways on land within the Town of Smelser.

1.03 AUTHORITY

These regulations are adopted under the general police powers authority granted pursuant to sec. 60.10(2)(c), 60.22(3), and 61.34(1) of the Wisconsin Statutes.

1.04 DEFINITIONS

(1) Driveway. A private driveway, road, new or improved field road, or other avenue of travel that runs through any part of a private 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 used only for agricultural purposes.

(3) Town Board. The Town of Smelser Board of Supervisors.

(4) Town Clerk. Clerk of the Town of Smelser

(5) Topography. The surface features of an area of land.

(6) Agricultural Land. Land within the Town of Smelser that has produced or is capable of producing a viable crop including forestry or pastureland

1.05 APPLICATION REQUIREMENTS AND PROCEDURES

(1) Who Must Apply. No person or entity shall establish, construct, improve, modify, or rework a driveway that changes the existing topography of the land without first obtaining a Driveway Construction Permit from the Town Board.

(2) Application Forms. The Town Board shall approve a form for applications for driveway permits. These are available from the Town Clerk.

(3) Application. Submit a completed Driveway Construction Permit Application with the appropriate fee and the following required attachments, as required, to the Town Clerk.

- (a) Plat map.
- (b) Aerial photo/site analysis.
- (c) Soil/slope analysis.
- (d) County Erosion Control Plan.
- (e) Driveway Construction Plan **or**
- (f) Engineer's Plan (if required).
- (g) Other Documents. The Town may require other documents to be attached to the Driveway Construction Permit Application.

(4) Application Review. Procedures for the evaluation of the Driveway Construction Permit Application, include a site view of the proposed drive, a public hearing, and a Town Board meeting.

(5) Permit Application Denial. If an application for a Driveway Construction Permit is denied by the Town Board, no reapplication for a relatively similar Driveway Construction Permit will be considered within 1 month of the denial.

(6) 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.

(7) Renewal. The permit may be renewed for 1 additional period of 12 months. If the driveway has not been constructed by the end of this period, a new application must be submitted and approved.

(8) Driveway Inspection. The applicant shall notify the Town Clerk within 30 days of completion of the construction or modification. Within 30 days of notification, the Town will conduct an inspection of the driveway to ensure full compliance with all of the provisions of this Ordinance.

(9) Building Permits. No Building Permit for new residential construction will be issued until the driveway is constructed according to the specifications of this Ordinance. The only exception will be the final application of gravel or other approved surface, which may occur after heavy equipment needed for building activities will no longer be using the driveway.

(10) Application Fee. An application fee of \$50 will be charged.

1.06 PLAN REQUIREMENTS

(1) Engineer's Plan. The Town Board may require a plan prepared by a licensed professional engineer prior to any proposed driveway construction or modification. An Engineer's Plan is required:

- (a) For a driveway or segment of a driveway whose construction requires the disturbance of land with a slope of 20% - 25%;
- (b) For a driveway or segment of a driveway that requires a retaining wall or other special erosion control measure as determined by the Town Board;
- (c) When the Town Board requests a plan.

(2) Construction Plan. A Construction Plan is required for all segments of the proposed driveway not covered by an Engineer's Plan. The plan shall be drawn to scale and show the location of the driveway on the lot.

1.07 SPECIFICATIONS FOR THE CONSTRUCTION OF DRIVEWAYS

(1) Slope. No land with a natural slope of more than 25% shall be disturbed for the establishment, construction, improvement, modification, or reworking of a 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. Single access driveways shall be constructed with a minimum of a finished surface of 12 feet in width, with a minimum of 4 feet side slope on each side with a maximum slope of 1 foot of vertical rise for each 4 feet of horizontal distance. (Such a rise equals 25% slope.) There shall be a minimum of 18 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 9 feet from the centerline of the 12-foot road.

Driveways exceeding 300 feet in length serving more than 1 tax parcel shall be constructed with a minimum finished surface of 20 feet in width, with a minimum of 4 feet side slope on each side with a maximum slope of 1 foot of vertical rise for each 4 feet of horizontal distance. (Such a rise equals 25% slope).

There shall be a minimum of 26 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 13 feet from the centerline of the 20-foot road.

(3) Culverts. Each driveway shall have a culvert at least 18 inches in diameter at the ditch line where the driveway meets the public road, unless modified by the Town Board. The culvert length will be determined by the Town Board of Supervisors.

(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 public road. A slight dip across the drive shall be placed just before the culvert at the entrance to a public road to prevent debris from washing onto the public 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/or 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 3 feet of horizontal distance. (Such a rise equals 33% slope.) Excluded from this grading requirement are driveways for which retaining walls and/or other erosion control measures are installed as specified in an Engineer's Plan approved by the Town Board. The side banks shall be constructed using earthen materials.

(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 within 30 days until specified controls are available.

(9) Substrate. The driveway must have at least 4 inches of 2-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 2-inch rock may be modified or waived by the Town Board. A field road is exempt from this provision.

(10) Clearance for Emergency Vehicles. An area 20 feet in width and 14 feet in height shall be cleared along the entire driveway right-of-way in order to permit the safe passage of emergency vehicles to the structures served by the driveway. A field road is exempt from this requirement.

(11) Turnaround. The driveway must have an in-back out with a radius of at least 90 degrees or a 50 foot turning radius.

(12) Line of sight. Preserving adequate sight distance helps prevent dangerous travel conditions on Town Roads. A visualization field of 450 feet will be required on roads with 45 mph speed limit. Sight obstructions can include crests of hills, curves, buildings and vegetation. The town Board has the right to decrease footage to 360 feet if deemed safe.

(13) Costs. All costs of construction of said driveway, including the cost of the culverts and Engineer's Plan, if required, shall be paid by the property owner requesting the permit.

(14) Waiver of Specifications. Any specification(s) in this section may be waived or modified by the Town Board if it deems the specification(s) would impose an unnecessary hardship. Any request by an applicant for a waiver or modification of any provision in this section must accompany the initial application and must state the reason for the request.

1.08 ENGINEER'S PLAN SPECIFICATIONS

(1) Components. If required, an Engineer's Plan will include a scale plan showing the following:

- (a) Location. The precise location of the driveway or the segment of driveway that requires an Engineer's Plan.
- (b) Slope. The slope of the driveway showing no segment exceeding 13%.
- (c) Retaining walls. The location and structure of any retaining walls.
- (d) Culverts. The location and size of any culverts.
- (e) Cross-section. A cross-section of the driveway.
- (f) Erosion control. The required mulching, matting, or other erosion control.
- (g) Certification. The plan will include the engineer's name, address, and signature; and a statement from the engineer that he has fully complied with all the provisions of this Ordinance.

(2) Approval.

- (a) Conditions. No construction of a driveway may commence until the Engineer's Plan, if required, is approved by the Town Board, until a Driveway Construction Permit is issued by the Town and, when applicable, any necessary approvals are obtained from Grant County or the State of Wisconsin (See sec. 86.07 of the Wisconsin Statutes).

The preparation of an Engineer's Plan does not guarantee the Town's approval of the Driveway Construction Permit Application.

- (b) Inspection. After the driveway has been completed, a minimum of 2 Town Board Supervisors shall inspect the driveway to determine whether or not it was constructed according to the plan(s) and is consistent with the requirements of this Ordinance.
- (c) Disclaimer. The Town's approval of a driveway 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.

1.09 EXISTING DRIVEWAYS

(1) Hazardous Conditions. When washing or other conditions created by existing driveways or field roads that do not meet the specifications required in this Ordinance obstruct or become a potential hazard to a public 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 penalties section of this Ordinance.

(2) Field Roads. No field road may be used for non-agricultural purposes unless the field road has been approved as a driveway under this Ordinance.

1.10 AGRICULTURAL PRODUCTIVITY

No driveway shall be approved in the Town of Smelser if the Town Board finds that the driveway or its intended usage will adversely impact the neighboring productive agricultural land, natural, and cultural resources as described in the Town of Smelser Comprehensive Plan.

1.11 PENALTIES

(1) 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, upon conviction, pay a forfeiture of \$100.00 plus applicable surcharges and court costs per violation. Each day that the violation continues to exist shall constitute a separate offense. An unlawful driveway constitutes a public nuisance and may be enjoined.

(2) Corrections. In addition, the landowner shall make the corrections ordered by the Town Board within 30 days or a period of time determined by the Town Board.

1.12 SEVERABILITY

The provisions of this Ordinance shall be deemed severable. It is expressly declared that the Town Board would have passed the other provisions of this Ordinance irrespective of whether or not one or more provisions may be declared invalid. If any provision of this Ordinance is held invalid, the remainder of the Ordinance and the application of such provisions to other persons or circumstances shall not be affected thereby.

1.13 EFFECTIVE DATE

This Ordinance shall take effect and be in force from and after the day after passage and publication as required by law.

(1) Town Board Approval. This Ordinance was adopted by the Town Board on this ____ day of _____, 2010.

APPROVED:

ATTEST:

- (2) Public Notice.
- (a) Public Review. A notice was published in the Tri-County Press newspaper on _____ (date) to inform residents that a final draft of this Ordinance was on file with the Town Clerk for a two week period (_____ - _____) during which it was available for inspection.
- (b) Posting. This Notice of Adoption of Ordinances relating to this Ordinance was posted on _____ (date) at the Smelser Town Hall.
- (c) Publication. A Notice of Adoption of Ordinances relating to this Ordinance was published in the Tri-County Press newspaper, the publication of record for the Town of Smelser on _____ (date).