

# **TOWN OF FREEDOM DRIVEWAY PERMIT ORDINANCE**

Ordinance # 212-18

(Replaces Ordinance # 207-13)

## **SECTION I - TITLE AND PURPOSE**

The title of this ordinance is the Town of Freedom Driveway Permit Ordinance. The purpose is to regulate, for public health and safety reasons, the establishment, construction, modification and reconstruction of private driveways, to assure that the methods of construction, modification and reconstruction practices used in any driveway will protect properly the public health, safety and general welfare of persons in the Town of Freedom, and to limit and regulate highway access by motor vehicles to any highway in the Town. Of particular interest, is facilitating safe access for fire trucks and other emergency vehicles to all properties. This is not a 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 s. 60.22, Wis. Stats., to adopt this ordinance.

## **SECTION III - ADOPTION OF ORDINANCE**

The Town Board, by this ordinance, adopted on 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 regulate and permit certain driveways and highway access locations in the Town. This ordinance replaces older Ordinance #207-13, which is repealed with the adoption of this ordinance.

## **SECTION IV - DEFINITIONS**

In this ordinance:

- A. "Prime or productive agricultural or forestry land" means any land designated as such in Maps 5-1, 5-2 and 11-1 in the Town's Comprehensive Plan, or any other maps designating prime or productive agricultural land or forestry land set forth in any plan of the Town.
- 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 vehicular access from the highway to a agricultural, residence, business, recreational site, or other similarly appropriate use. A driveway extends from the edge of the drivable surface of the highway to the structure served by it, up to the garage door in the case of driveways that terminate at a garage.
- C. "Emergency vehicle" means any fire, police, ambulance, or first responder vehicle 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 Freedom, Sauk County, Wisconsin.
- F. "Town Board" means the board of supervisors for the Town of Freedom, Sauk 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 Freedom, Sauk County, Wisconsin.
- H. "Wis. Stats." means the Wisconsin Statutes, including successor provisions to cited statutes.
- I. "Town highway" is any public roadway in the Town. This includes County highways.
- J. "Agricultural access driveway" is a private driveway, road or other avenue of travel that runs through any part of a private parcel of land that connects with any public roadway that is used for the sole purpose of providing roadway access to agricultural buildings, fields or other agricultural areas.
- K. "Driveway access" is the portion of the driveway from the road surface to the edge of the highway right of way.

#### SECTION V - SUBDIVISION AND NUMBERING OF THIS ORDINANCE

This ordinance is divided into sections designated by upper case Roman numerals. Sections may be divided into subsections designated by upper case letters. Subsections may be divided into paragraphs designated by numbers. Paragraphs may be divided into subdivisions designated by lower case letters. Subdivisions may be divided into subdivision paragraphs designated by lower case 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 driveway shall be established or constructed without a permit as provided in this ordinance. Reconstruction or modification of existing driveways require a permit as provided in this ordinance if any of the following occur:
  - 1. Alteration of the centerline of the driveway by ten feet or more.
  - 2. Alteration of the length of the driveway resulting in a driveway that is 300 feet or more in length.
  - 3. Alteration of the width of the surface of the existing driveway if prior to modification/reconstruction the width is less than 12 feet.
  - 4. Alteration of the slope of any driveway that had a slope of 15% or more prior to modification/reconstruction.
  - 5. Alteration of the slope of a driveway, which results in a slope of 15% or more.

6. Change or alteration of the driveway's access to the road right of way. A permit is issued upon the Town Board's approval of an application that demonstrates that the proposed driveway will meet the requirements of this ordinance. For agriculture access driveways only portions within the highway setback will be subject to provisions of this ordinance.

If the Town does routine road maintenance and ditch drainage maintenance that requires the placement or replacement of a culvert at a landowner's road entrance, the landowner will not be required to apply for a driveway permit, provided the work is done under the supervision of the Town Board or its designated representative. The landowner will be responsible for the cost of the culvert and its installation.

In the case of a major road reconstruction, the Town will return all driveway entrances to a usable condition. The landowner will have one year to claim their entrance needs more work. After that year period, the landowner will have to apply for a driveway permit and pay for all work done.

- B. The Town Board shall approve a form for application for the construction permit, which shall be available from the Town Clerk or from the Town website ([www.freedomwi.com/forms,-licenses,-permits](http://www.freedomwi.com/forms,-licenses,-permits)).
- C. The applicant for a driveway shall submit a completed construction permit application to the Town Clerk for each driveway with the appropriate fee and with the following attachments, with enough detail to allow making of an informed decision:
  - 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 Plan Commission prior to the preparation or submission of the other supporting documents in order for the Plan Commission to provide initial comments and review of the proposal. However, formal approval for a Town Driveway Permit will not be granted without the submission of complete supporting documents.
  - 2. Map. A plat map or survey indicating the location and dimensions of the desired driveway, the desired highway access location, and all highways and other driveway locations within 500 feet of the edges of all contiguous land parcels owned by the applicant.
  - 3. (Optional) Aerial Photo/Site Analysis. (Available from the Sauk County mapping office or the Internet.)
  - 4. (Optional) Soil/Slope Analysis.
  - 5. Driveway Construction Plan, including materials, arrangement, depth of layers and all details of construction.
  - 6. Other Documents. The Town Board may require other documents to be attached to the Driveway Permit Application.
- D. No construction permit shall be issued unless the applicant's submission demonstrates compliance with the following:
  - 1. A minimum road surface width of 12 feet.
  - 2. A minimum width clearance of 24 feet.
  - 3. A minimum height clearance free of trees and wires of 18 feet.
  - 4. A maximum grade of 15 percent. No driveway shall be built on land with a general slope of more than 20%.
  - 5. To provide passing for emergency vehicles, segments of the road surface 40 feet long and 22 feet wide shall be provided at intervals of no more than 300 feet.
  - 6. The driveway within the area of the public right-of-way shall slope away from the public road at a minimum of 1% and a maximum of 5% to prevent erosion onto the public road. If the driveway must slope towards the road, it shall be crowned to direct drainage into the ditch rather than onto the highway surface.

7. At the dead end of the driveway, a turn around will be built of at least 25-foot radius or some other method to allow vehicles to turn around.
8. Culverts:
  - The landowner will be responsible for all costs associated with purchasing, installing, and maintaining any required culverts.
  - The culvert at the road access shall have a minimum diameter of 15 inches. The minimum length will be 26 feet.
  - All culverts will be metal and installed with metal end walls.
  - The diameter and length of any culvert required outside the highway easement will be determined in consultation with the Town Board or their representative.
  - A failed culvert, as determined by the landowner or the Town Board or its representative, shall be replaced by the landowner at their expense within six months of the determination of failure. (See Section VIII)
9. Whenever possible, a new driveway will be located to prevent new forest edges and so preserve the existing forest canopy, unless a convincing argument can be presented that shows adherence to this would cause great difficulty in constructing the driveway.
10. Shared driveways are encouraged, but shall be limited to provide access to no more than four single-family residences.
11. An applicant must provide a more detailed construction plan if any of the following apply:
  - Construction of a driveway, or segment of a driveway, that requires the disturbance of land with a slope of more than 10%.
  - A driveway, or segment of a driveway, that requires a retaining wall or other special erosion control measure as determined by the Town Board, or its designee.
  - A driveway that crosses a waterway or has the potential to significantly alter existing drainage patterns or quantity of runoff.
  - Construction or modification of a driveway that necessitates construction or improvement of a bridge or culvert.
  - Other circumstances that require a more specific plan.
12. A more detailed driveway construction plan requires the submission of a plan, drawn to scale, showing all of the following:
  - Location. The precise location of the driveway or the segment of the driveway for which the driveway construction plan is required, including the width and length of the driveway.
  - Slope. A profile of the driveway route before and after construction showing a maximum finished driveway slope of 15%.
  - Retaining Walls. The location and structure of any retaining walls.
  - Bridges. The location, size, and design calculations of any bridges.
  - Culverts. The location, size, and design calculations of any culverts.
  - Cross-section. Typical cross-sections of the driveway.

- Erosion Control. Required mulching, matting, or other erosion control.
  - 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.
  - Other Access Points. The location of any other access points onto the Town highway within one mile of the proposed access point.
- E. The preparation of a driveway construction permit application does not guarantee the approval of a permit by the Town Board.
- F. Any person seeking a Town Driveway Permit must own or have a legal interest in, and current legal access to, the land to which the permit(s) will apply prior to and at the time of application.
- G. Only one driveway will be permitted per land parcel. Additional driveways are allowed if the applicant is able to establish that each additional driveway is necessary after consideration of the following factors:
- An additional driveway is necessary to make practical use of the land.
  - Natural features of the land require more than one driveway.
  - An additional driveway is necessary to provide adequate emergency vehicle access.
  - An additional driveway is necessary for the safety of the traveling public.
  - The need for an additional driveway was not the result of the actions of the applicant or prior landowners including, but not limited to, unwise division of land or location of buildings or other structures.
  - Additional driveways are allowed to provide access to agricultural fields, if it is not feasible to access all of the agricultural fields through use of a primary driveway.
- H. Waiver of specifications. After determination by the Plan Commission that a proposed driveway does not meet the minimum criteria for a driveway permit, the Town Board may waive or modify any of the above specification(s) if unique aspects of the property where the driveway is to be located make compliance with the specifications of this ordinance impossible or excessively burdensome. 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. The Town Board must submit a written and signed statement, specifying the provisions of the ordinance to be waived, detailing the reasons for waiving the specification(s) and attach it to the permit.

## SECTION VII - PROCEDURE

Procedures for the evaluation of a construction permit by the Town Board are as follows:

- A. Driveway permit application forms are available from the Town Clerk.
- B. The Town Plan Commission will review the application to determine that the proposed driveway is consistent with the Town Comprehensive Plan, and to assure compliance with the provisions of this ordinance. For consideration at a particular meeting, application and supporting materials must be given to the Town Clerk 10 or more days prior to the Plan Commission's meeting date. The Plan Commission will recommend to the Town Board that the application be approved or denied.
- C. The Town Board will review the recommendation of the Plan Commission at its next meeting after the Plan Commission issues its recommendation. The Town Board may delay a decision until a later meeting if the Town Board determines more information is needed.
- D. The Town Board shall approve or deny the application and may, as a condition of issuance, place specific restrictions or conditions on the permit, which shall require compliance by the applicant. Reasons for denying a construction 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:
    - This ordinance.
    - Any existing Town Comprehensive Plan, Master Plan, or Land Use Plan.
    - Town ordinances, rules, regulations, or plans.
    - Any applicable county, state, or federal laws, ordinances, rules, regulations, or plans.
  2. The driveway, 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 Board.
  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 highway access 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 and egress for emergency vehicles.

- E. In the event of a denial of a construction permit application, the Town Board shall recite in writing the particular facts upon which it based its denial. Upon request, an applicant may request the opportunity for a public hearing to present evidence in support of the application. Notice of the hearing will be published twice. At the hearing, the applicant may be represented by legal counsel 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 driveway. 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. The applicant may appeal the Town Board's determination within 60 days to the circuit court.
- F. The issuance of a driveway 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, that public access and travel is authorized, or that the applicant or permittee is in compliance with this ordinance.
- G. If the Town Board denies two consecutive applications for a construction permit for a driveway located on the same parcel, no subsequent reapplication for a permit that was denied for that parcel will be considered within 12 months of the second denial.
- H. Once granted a permit, the applicant has 12 months from the date of issuance to complete construction of the driveway. If the applicant fails to do so, a new application and fee must be submitted and approved.
- I. No building permit shall be issued until a driveway permit is issued.
- J. A nonrefundable application fee of \$100 will be charged for each driveway. All additional administrative costs, inspection and engineering fees and legal costs shall be paid by the applicant. The applicant will also reimburse the Town within 30 days for any damage caused to the Town road or road right-of-way for construction of the driveway.
- K. An applicant shall agree that the Town, or its designee, may inspect the driveway at all stages of construction and upon completion for compliance with the provisions of this ordinance. In addition, the Town shall have the right of inspection pursuant to section 66.0119 of the Wisconsin Statutes.
- L. The construction permit only gives Town approval of driveway construction. The landowner is responsible obtaining any additional permits that may be required by other agencies, such as the County or Department of Natural Resources.

#### SECTION VIII - EXISTING DRIVEWAYS

- A. Commencing 6 months after the effective date of this ordinance, if the Town Board determines that a driveway access poses a safety concern such that:
  - Safe and timely vehicle access (including emergency vehicle access) is substantially limited to the parcel served by the driveway, or
  - The safety of the public traveling upon the public highway is jeopardized by the driveway,

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, until such repairs are made, or maintenance is performed, to meet the requirements of this ordinance.

- B. If the Town Board makes a determination that an existing driveway access is unsafe, the Town Board shall serve upon the impacted landowner written notice of the Town Board's determination and the reasons for its decision and set a public hearing on the matter. The impacted landowner shall be provided notice within 20 days of the Town Board's determination. The Town Board's determination shall not be final until a public hearing is held and the landowner has the opportunity to present evidence to the Town regarding the condition of the driveway. Notice of the hearing shall be published twice. The impacted landowner shall be provided notice at least 10 days prior to the hearing date. Unless ordered otherwise by the Town Board, the driveway may continue to be used or maintained until the public hearing.

At the hearing, the landowner may be represented by legal counsel 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 driveway.

- C. The Town Board, at or after the hearing, may order any of the following:
- That certain repairs or maintenance be performed on the driveway to meet the requirements of this ordinance.
  - That the driveway not be utilized until the repairs or maintenance are completed (except for emergency vehicle access).
  - 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.
- D. If the landowner disagrees with the decision of the Town Board, the landowner may appeal to the circuit court within 60 days.

#### 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 \$50 nor more than \$100, 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 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 or posting.

The Town Clerk shall properly post or publish this ordinance as required under s. 60.80,  
Wis. Stats.

Adopted this 9<sup>th</sup> day of January 2018

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Dennis Rehr, Chairman

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Greg Anstett

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Gerd Muehlechner

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Andy Zimmer

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Dale Klengenmeyer

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Attest: Jennifer Roloff – Town Clerk