

## **Driveway Ordinance / Application**

### **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.
- (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? . The person(s) seeking a permit must own the land to which the permit will 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.

Existing driveways constructed prior to implementation of this ordinance are grandfathered in, unless there is a change from agricultural to another use. Surface maintenance such as paving, seal coating, grading or applying gravel do not require a driveway permit.

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

(3) Application. Submitting a completed Driveway Construction Permit.

Submit the application with the appropriate fee and the following required attachments, as required, to the Town Clerk.

a) Plat map or

(b) Driveway Construction Plan

(c) or 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 include a site view of the proposed driveway and approval during a presentation at a Town Board Meeting.

(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 permit may be renewed for 1 additional period of 12 months. The applicant is required to re-submit driveway application and pay application fee of \$50.00.

(7) Driveway Inspection. The applicant shall notify the Town Clerk within 30 days of completion of the construction or modification. Within 30 days of notification, any dispute regarding the driveway location will be resolved by the Town Board and be based upon town practices accepted by the WI Department of Transportation.

(8) 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 at the end of construction.

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

#### 1.06 SPECIFICATIONS FOR THE CONSTRUCTION OF DRIVEWAYS

(1 ) Culverts. Each driveway shall have a culvert at least 18 inches in diameter and a length of 30 (thirty) feet at the ditch line where the driveway meets the public road, unless modified by the Town Board. Double walled poly culverts and aprons are mandatory. A culvert may not be necessary if the water can drain in both directions, as determined by the town board of supervisors.

(2) Juncture with Public Road. A driveway 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.

(3) 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.

(4) Substrate. The portion of driveway within the town right of way 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.

(5) 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.

(6) Costs. All costs of construction of said driveway, including the cost of the culverts shall be paid by the property owner requesting the permit.

#### 1.07 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. Property owner has 30 days to comply, if property owner does not correct issues, Town of Smelser shall repair at cost to property owner.

(2) Field Roads. No field road may be used for non-agricultural purposes unless the field road has been modified to meet the listed specifications as a driveway under this Ordinance and approved by the town Board.

#### 1.08 PARTNERS IN RURAL WISCONSIN

The Town of Smelser's Comprehensive Plan has established that we are an agricultural community with normal day-to-day farming practices. It is the goal of the Town of Smelser to maintain a positive relationship between farmers and non-farmers, as this benefits our entire community. It is with this intent that 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, natural and cultural resources as described in the Town of Smelser Comprehensive Plan.

#### 1.09 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, or a period of time determined by the Town Board, 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. The cost of correcting the driveway will be the property owner (s) responsibility.

#### 1.10 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.

#### 1.11 EFFECTIVE DATE

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

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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. The Town Board adopted this Ordinance on this 14th day of June, 2012

Approved: Pat Klar & Robert Droessler

Attest: Kim Kieler

Posted at three legal sites and Town Hall on 6/23/12