

## **Ordinance #37**

### **Town Driveway and Highway Access Ordinance**

**STATE OF WISCONSIN**

**Town of Namakagon**

**Bayfield County**

#### **SECTION I – TITLE AND PURPOSE**

The title of this ordinance is the Town of Namakagon Driveway and Highway Access Ordinance. The purpose is to regulate, for public health and safety reasons, the establishment, repair, construction, improvement, modification and reconstruction of private driveways, to assure that the methods of repair, construction, improvement, modification and reconstruction practices used in any driveway will protect properly the public health, safety and general welfare of persons in the town and to limit and regulate highway access by motor vehicles to any town highway in the town.

#### **SECTION II – AUTHORITY**

These regulations are adopted under the general police powers authority granted pursuant to WI Stats. §60.10(2)(c), §60.22(3) and §61.34(1) and the controlled access highway power granted pursuant to WI Stats. §83.027(10), §84.25(10), §86.02, §86.04 and §86.07(2).

#### **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 the authority for the town to regulate and permit certain driveways and highway access locations in the town.

#### **SECTION IV – DEFINITIONS**

- A. Prime Agricultural Land: Any land within the town that is currently being farmed, including cropland and pastureland, or land that is included in a government set-aside program.
- B. Driveway: 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 service to a residence, business, recreational site, or other similarly appropriate uses.
- C. Private Road: A privately owned improved or unimproved path, road, drive, street, driveway, or way, or other improved or unimproved surface, not dedicated as a public road, public street, or public highway, which provides the primary means of vehicular ingress and egress from a public road, public street, or public highway to two or more improved parcels, or two or more principal buildings.

- D. Improved Parcel: A lot or parcel of land which is served by or has available electrical service or which is otherwise physically improved so that it is intended for, available for or capable of being a site for the location, erections, or construction of a principal building.
- E. Principal Building: A building or other structure, which is intended for, suitable for, or capable of being used for human dwelling or occupancy or business. An accessory building is not a principal building.
- F. Town: The Town of Namakagon, Bayfield County, Wisconsin.
- G. Town Board: The board of supervisors for the Town of Namakagon, Bayfield County, Wisconsin and includes designees of the board authorized to act for the board.
- H. Town Clerk: The clerk of the Town of Namakagon, Bayfield County, Wisconsin.
- I. WI Stats.: The Wisconsin State Statutes, including successor provisions to cited statutes.

## **SECTION V – PERMIT PROVISIONS**

- A. Any person seeking a Town Driveway Permit or a Town Highway Access Permit must own or have a legal interest in and current access to the land to which the permit will apply.
- B. No construction, reconstruction, rerouting or alteration of a driveway nor construction of a highway access onto a town highway may commence until all of the following conditions are met:
  - 1. The driveway construction plan or highway access plan, if required, is approved by the Town Board.
  - 2. A Town Driveway Permit is issued by the town, and if applicable, a Town Highway Access permit is issued by the town.
  - 3. When applicable, any other necessary approvals are obtained from Bayfield County or the State of Wisconsin.
- C. The town's approval of a Town Driveway Permit or Town Highway Access Permit application does not constitute a determination that the driveway is safe, suitable for use or otherwise passable for the public, or that public access is authorized. No person may rely on the issuance of either permit to determine that a driveway, bridge, culvert or highway access location is fit or safe for any purpose.
- D. The approval of the Town Driveway Permit or Town Highway Access Permit application does not establish future approval of any driveway as a public road in the Town of Namakagon.

## **SECTION VI – APPLICATION REQUIREMENTS & PROCEDURES**

- A. Who Must Apply
  - 1. Driveway/Culvert Required  
No person, partnership, company, or corporation shall, by means of a vehicle, enter, or cause to enter any parcel or parcels of land from any town road or highway, unless a culvert and gravel driveway has been provided for

said parcel(s) of land, unless deemed unnecessary by the Town Road Department.

2. **Town Driveway Permit Required**

No person shall establish or construct a driveway or reconstruct, reroute or alter the existing slope of any driveway or other highway or highway right-of-way in the town without first obtaining a Town Driveway Permit to be issued by the Town Board. The town shall not issue driveway permits for private easements that provide access to land-locked parcels.

3. **Town Highway Access Permit Required**

No person shall establish or construct a driveway or reconstruct, reroute, or alter any highway access onto a town highway without first obtaining a Town Highway Access Permit.

B. **Application Form**

The Town Board shall approve a form for application for both the Town Driveway Permit and the Town Highway Access Permit, which shall be available from the Town Clerk.

C. **Application Procedure**

The applicant for a Town Driveway Permit or a Town Highway Access Permit shall submit to the Town Clerk a completed application for each with the appropriate fee at least ten working days in advance of the intended installation. The application must be submitted with the following attachments:

1. Sketch Map: A rough sketch showing the conceptual idea of the project and approximate location and dimensions. The sketch map may be submitted to the Town Board prior to the preparation or submission of the other supporting documents in order for the Town Board to provide initial comments and review of the proposal. However, formal approval for a Driveway Permit or Town Highway Access Permit will not be granted without the submission of complete supporting documents.
2. Driveway Construction Plan (If required).
3. Highway Access Location Plan (If required).
4. Other Documents. The Town Board may require other documents to be attached to the Driveway Permit application.

D. **Application Review**

The Town Board or its designee shall review each application and either approve, deny, or request additional information within thirty business days from the receipt of the application. The application may, as a condition of issuance, place specific restrictions or conditions on the permit, which shall require compliance by the applicant/permittee.

E. **Permit Application Denial**

Reasons for denying a Town Driveway Permit Application or Town Highway Access Permit Application may include:

1. The inconsistency or nonconformance of the proposed driveway or highway access with this ordinance, with the Town Comprehensive Plan, Master Plan or Land Use Plan, with town laws, ordinances, rules,

regulations or plans or applicable county, state or federal laws, ordinances, rules, regulations or plans.

2. The driveway, bridge, 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, culverts and highway access locations will be safer for persons by motor vehicle ingressing or egressing on the driveway and access point.
5. Alternative driveway locations and town highway locations will preserve more agricultural land in the town.

F. Appeal

In the event of a denial by the Town Clerk, the applicant may appeal to the Town Board. In the event of a denial, the Town Clerk shall recite in writing the particular facts upon which he/she bases the denial of the permit. The Town Board shall afford the applicant an opportunity to review the Town Clerk's decision and present evidence to the Town Board refuting the determination. Thereafter, the Town Board may affirm or modify the decision. The Town Board shall recite in writing findings for any decision to modify or override its initial determination.

G. Re-Application

If the Town Board denies two consecutive applications for a Town Driveway Permit or denies two consecutive applications for a Town Highway Access Permit on the same parcel, no subsequent re-application for a permit of the same type that was denied for that parcel will be considered within six months of the second denial.

H. Permit Period

Both the Town Driveway Permit and the Town Highway Access Permit are effective for one year from the date of issuance. Each permit shall expire one year unless renewed.

I. Renewal

The permit may be renewed for an additional period of one year. If the driveway or highway access has not been constructed by the end of this period, a new application must be submitted and approved. All application fees apply.

J. Driveway Inspection

Within thirty days of notification of driveway completion, a delegated member of the town road crew shall inspect the driveway and any town highway access locations to ensure full compliance with all of the permit conditions and provisions of this ordinance.

K. Application Fees

An application fee in an amount determined by a resolution of the Town Board will be charged for each permit. These fees are specified as follows:

1. Driveway Permit \$100.00

2. Highway Access Permit \$100.00
3. An After-the-fact permit application fee is \$200.00; which includes the \$100.00 application fee, plus the \$100.00 late fee.

## **SECTION VII – TEMPORARY PERMITS**

The Town of Namakagon may issue a temporary permit allowing access to a roadway during construction in accordance with this section.

- A. The permittee must complete a proper application and pay the same fee as for a permanent driveway.
- B. When the temporary access driveway is terminated, the gravel and culvert shall be removed, and the area restored with topsoil, seed and mulch.
- C. This section may be used for such temporary installations such as logging roads.

## **SECTION VIII – CONSTRUCTION PLAN OR HIGHWAY ACCESS PLAN**

### **A. When a Construction or Highway Access Plan Is Required**

The Town Board may in writing require a driveway construction plan or highway access plan prior to any proposed driveway or highway access construction, reconstruction, rerouting or alteration. The preparation of a driveway construction plan or a highway access plan does not guarantee the towns approval of a Town Driveway Permit or Town Highway Access Permit.

#### **1. Driveway Construction Plan**

A Driveway Construction Plan is required for any of the following unless the requirement is waived by the Town Board in writing:

- a. 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 Town Road Foreman.
- b. A driveway that crosses a waterway or has the potential to significantly alter existing drainage patterns or quantity of runoff.
- c. When construction or modification of the driveway necessitates construction or improvement of a bridge or culvert.
- d. When the Town Board in writing requests a driveway construction plan or town highway access plan.

#### **2. Highway Access Plan**

A highway access plan is required for all sections of any proposed driveway by the applicant that will enter onto a town highway. If required, a driveway construction plan or highway access plan will include a scale plan showing all of the following:

- a. Location. The precise location of the driveway or the segment of the driveway for which the driveway construction plan is required.
- b. Retaining Walls. The location and structure of any retaining walls.
- c. Bridges. The location, size and design calculation of any bridges.
- d. Culverts. The location, size and design calculation of any culverts.
- e. Cross-section. Typical cross sections of the driveway.



- f. Erosion Control. Required mulching, matting or other erosion control.
- g. 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.
- h. Other Access Points. The location of any other access points onto the town highway within one mile of proposed access point.

#### **SECTION IX – GENERAL PROVISIONS**

- A. The permittee shall furnish all materials, do all work, and pay all costs in connections with the construction of the driveway and its appurtenances on the highway right-of-way. In every instance the subsequent maintenance of the driveway and its appurtenances, within the limits of the highway right-of-way, shall be the responsibility of the indicated permittee, who shall be obligated to pay all costs and accomplish all work necessary in relation to the maintenance of the driveway. Materials used and type of character of the work shall be suitable and appropriate for the intended purpose. The nature of construction shall be as designed and subject to approval of the road department. The driveway installation shall be made without jeopardy to or interference with traffic using the highway. Highway surfaces, shoulder, ditches, and vegetation which are disturbed by the driveway installation shall be restored to at least the pre-existing conditions by the driveway construction. Any such facilities disturbed by operations relating to the subsequent maintenance of the driveway shall be restored by the permittee to the satisfaction of the road department. Any ditching, shouldering, revegetation, or any other acts of construction that are not completed within 30 days from the date of issuance are subject to penalties in Section XIV.
- B. No revisions or additions shall be made to the driveway or its appurtenances on the right-of-way without the written permission of the road department.
- C. The Town of Namakagon reserves the right to make such changes, additions, repairs, and relocations within statutory limits to the driveway or its appurtenances on the right-of-way as may at any time be considered necessary to facilitate the relocation, reconstruction, widening and maintaining of the highway, or to provide proper protection to life and property on or adjacent to the highway.
- D. The permittee, his successors or assigns agree to hold harmless the Town of Namakagon and its duly appointed agents and employees against any action for personal injury or property damage sustained by reason of the exercise of this permit.
- E. The Town of Namakagon does not assume any responsibility for removal or clearance of snow, ice or sleet, or the opening of wind rows of such material upon any portion of any driveway or entrance along any state highway, even

though snow, ice or sleet is deposited or wind rowed on said driveway or entrance by its authorized representatives engaged in normal winter maintenance operations.

- F. No material from the driveway may be deposited onto the roadway at any time becoming a hazard on the roadway. Such actions become the liability of the landowner and are subject to penalties in Section XIV.

## **SECTION X – STANDARDS**

All driveways installed, altered changed, replaced, or extended shall meet the following requirements and must be approved as to location by the town.

### **A. Width**

1. For residential properties, a minimum of twenty-four feet at the lot line and a maximum of twenty-five feet at the roadway. The twenty-four foot minimum is that which shall be cleared of brush with twelve feet required each side of center of the driveway surface.
2. Drivable surface must be a minimum of twelve feet wide.
3. For agricultural and commercial properties, a minimum of thirty-five feet at the lot line and maximum of fifty feet at the roadway.
4. Private Roads
  - a. Drivable surface must be twenty-two feet wide.
  - b. If the road serves two to four improved parcels and/or principal buildings, the width clearance must be forty feet, which is twenty feet each side of center of the road.
  - c. If the road serves five or more improved parcels and/or principal buildings, the width clearance must be sixty-six feet, which is thirty-three feet each side from center of road.

### **B. Height Clearance**

1. Overhead clearance shall be maintained at fourteen feet.
2. Private roads must have a height clearance of eighteen feet.

### **C. Islands**

Islands between driveway openings shall be provided with a minimum of twelve feet between all driveway culverts.

### **D. Aprons**

No driveway apron shall extend out into the street farther than the near edge of the town road pavement and under no circumstances shall such driveway apron extend above any road pavement surface. All driveway entrances and approaches shall be constructed as not to interfere with drainage of streets, side ditches or roadside areas or with any existing structure on the right-of-way.

### **E. Slopes**

The surface of the driveway connecting with rural type highway sections shall slope down and away from the highway a sufficient amount and distance to preclude ordinary surface water drainage from the driveway area flowing onto the highway roadbed.

### **F. Utilities**

Driveways shall in all cases be placed wherever possible as to not interfere with utilities in place. Any costs of relocating utilities shall be the responsibility of the property owner. Approval of the town is necessary for relocating utilities.

G. Materials

Driveway pavement materials within the town right-of-way shall be compatible with adjacent town pavement material, limiting it to crushed gravel, crushed rock and bituminous products. Concrete pavements shall end a minimum of ten feet from the town road pavement. Oil or petroleum products shall not be used in right-of-way areas where it can be tracked onto the affect the town highway. The bottom course of the driveway may be constructed of large size crushed stones or rock, except along that part adjacent to the culvert pipe, and the upper course, at least, shall consist of medium well-graded crushed gravel or fine-to-medium well-graded crushed rock. In no case shall the granular material or subsequent permanent surfacing be constructed higher than the adjacent highway pavement.

H. Driveway Openings

The maximum number of driveway openings for vehicular ingress and egress permitted for lots with a continuous road frontage of less than two hundred feet shall be one and for lots with a continuous road frontage of two hundred feet or greater may be two if the driveway does meet an arterial road as defined by the Land Use Plan. Agricultural parcels upon which actual agricultural activities are practiced may average one driveway per field.

I. Culverts

All culverts shall be a minimum of twelve inches, but adequate to handle any drainage as determined by the road department. All exceptions must be approved by the Town Board or its designee.

1. Maximum length shall be thirty feet for residential, fifty feet for others.
2. Minimum length shall be twenty feet.
3. Distance between culvert ends is twelve feet.
4. Culvert materials shall be a minimum of twelve inches in diameter, made of corrugated steel, double wall plastic or of a material and size approved in writing by the road department.
5. For private roads, culverts must be eighteen inches in diameter.

J. Bridges

1. Any bridges must have a 40,000 lb. capacity.
2. For private roads, any bridges must have an 80,000 lb. capacity.

## **SECTION XI – STRUCTURES AND CONSTRUCTION IN THE TOWN RIGHT-OF-WAY**

A. Permit Required

No person, partnership, company, or corporation shall erect or install any structure, sign, fence, wall, pavement or other vehicle access nor perform or arrange for any construction within or upon the town highway right-of-way without first obtaining a written permit from the town, with the exception of a mailbox and boxes installed for the delivery of newspapers.



B. Mailboxes

Mailboxes shall be installed in accordance with U.S. Postal Service regulations, but as far from the town highway pavement as those regulations allow. No mailbox or its support may encroach on the road surface or on the shoulder of the road. Mailbox supports and attachments shall be strong enough to withstand the pressure and thrust of plowed, wet snow, but shall not be so formidable and massive as to damage vehicles and cause serious injury to people who may accidentally strike them. Refer to the Wisconsin Transportation Bulletin on mailbox safety and the USPS guidelines attached.

C. Existing structures and Obstructions

Any existing structure, sign, fence, wall, pavement or other obstruction (including trees) which, in the judgement of the town, is a hazard to public safety, or will prevent proper snow removal from the pavement and shoulders or mowing of the ditches of the town highway shall be removed by the owner or occupant of the adjacent property with fifteen days of receiving written notice from the town. If the owner or occupant does not remove said structure of obstruction within the allotted time, the town shall remove or make arrangements to have the obstruction removed, and the expense of the removal shall be charged to the adjacent property as a special assessment, after notice and hearing.

## **SECTION XII – MAINTENANCE**

As a condition of any Town Driveway Permit and any Town Highway Access Permit, the driveway and highway access shall be constructed and maintained by the owner or occupant to ensure access by emergency vehicles.

## **SECTION XIII – PLOWING ONTO TOWN ROADS**

WI Stats. §86.01 and Transportation Administrative rule 941.03 state the regulations and assumed liability for plowing snow onto town roads. Anyone plowing snow onto town roads is liable for any damage done to property as a result of the snow in the roads. Furthermore, the person plowing snow onto town roads is subject to penalties in Section XIV.

## **SECTION XIV – PENALTIES**

- A. Any construction of a private road or driveway that occurs before a permit is obtained will be sent a notice to come into compliance within 30 days. If the private road or driveway is not compliant within 30 days, it may be flagged and removed. The cost of removal will be the landowner's responsibility, or a fine of \$1,000, whichever is greater.
- B. Any ditching, shouldering, revegetation, or any other acts of construction that are not completed in 30 days will be completed by the road department at a cost incurred by the town.

- C. Any person depositing material from a driveway onto the roadway, becoming a hazard on the roadway, at any time becomes the liability of the landowner and may be fined up to \$500.00.
- D. Any person plowing snow onto town roads is subject to a fine of \$350.00.
- E. 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 \$500, plus the applicable surcharges, assessments and costs for each violation. Each day a violation exists or continues constitutes a separate offense under this ordinance.
- F. A late fee of \$100.00 will be added to the application fee of \$100.00 for any after-the-fact permits.
- G. In addition, the Town Board may seek injunctive relief from a court of record to enjoin further violations.

#### SECTION XV – EFFECTIVE DATE

The Town Clerk shall properly post or publish this ordinance as required under WI Stats. §60.80. This ordinance is effective on publication or posting.

Adopted this 14<sup>th</sup> day of March, 2023.

Town of Namakagon, Bayfield County, Wisconsin

Robert Rasmussen  
Robert Rasmussen, Town Chairman

James Krueger  
James Krueger, Town Supervisor

Posted:

3/17/2023

Jack McGregor  
Jack McGregor, Town Supervisor

Attested:

Laura Bjork  
Laura Bjork, Town Clerk