

**Town of Jefferson
Ordinance 12-18
Driveway and Town Road Access Permit**

STATE OF WISCONSIN

Town of Jefferson

Jefferson County

SECTION I – TITLE AND PURPOSE

The title of this ordinance is the Town of Jefferson Driveway and Town Road Access Permit 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 of Jefferson, and to limit and regulate road access by motor vehicles to any town road in the town. This is not a town zoning ordinance.

SECTION II – AUTHORITY

The town board has the specific authority under s. 66.0425 and 86.07, Wis. stats., to adopt a town road access permit ordinance, and has the general authority under s. 60.22, 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 town road access locations in the town.

SECTION IV – DEFINITIONS

In this ordinance:

- 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, and will provide vehicular access from the road 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 by a driveway determined to be unsafe.
- D. “Prime or productive agricultural or forestry land” means any land within the town that is currently being farmed or kept in forestry, including cropland and pastureland, or land that is included in a government sponsored agricultural or forestry program.
- E. “Town” means the Town of Jefferson, Jefferson County, Wisconsin.
- F. “Town board” means the board of supervisors for the Town of Jefferson, Jefferson 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 Jefferson, Jefferson County, Wisconsin.
- H. “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 reconstruct, reroute, or alter the existing slope of any existing driveway or any town or other highway or road right-of-way in the town in relation to the connection of the road or road right-of-way to a driveway, whether new or previously existing, without first obtaining a Town Driveway Permit to be issued by the town board.

B. No person may establish or construct a driveway or reconstruct, reroute, or alter any road access onto a town road without first obtaining a Town road Access Permit to be issued by the town board.

C. Any person prior to and at the time of seeking a Town Driveway Permit or a Town Road Access Permit must own or have a legal interest in and current legal access to the land to which the permit(s) will apply.

D. 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 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 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.

1. 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.

2. 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 potentially 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 dwellings served by the subject driveway may not be possible.

3. 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.

4. 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 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

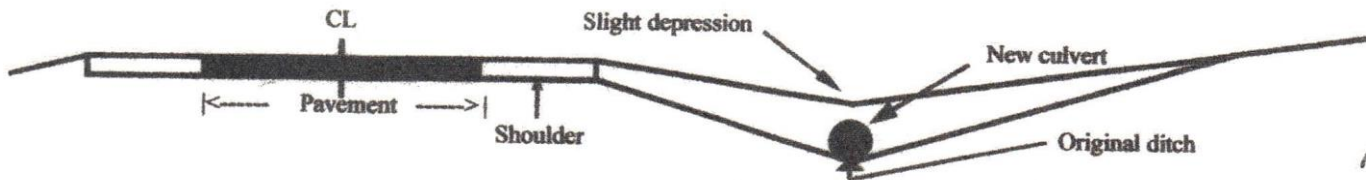
from the residential dwellings served by the driveway in a proper manner and in a reasonable time specified by the court and that if the driveway is not so reconstructed or repaired by the date specified, the town board may have the driveway reconstructed or repaired and the cost assessed as a special 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.

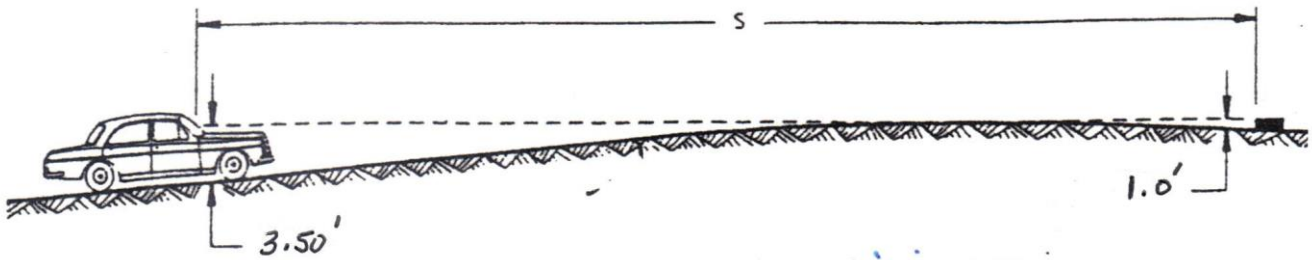
SECTION VII – SPECIFICATIONS

Commencing on the effective date of this ordinance new driveways being constructed in the town for which a Town Driveway Permit is required under Section VI shall meet all of the following minimum requirements. Additionally, no permit shall be issued unless the materials submitted as required under Sections VIII and IX demonstrate compliance with the requirements of this section:

<u>Construction requirement</u>	<u>Road Access</u>	<u>Driveway</u>
A. Minimum distance from the nearest edge of the right-of-way of an intersecting public road	Recommend 75'	Recommend 75'
B. Minimum distance from edge of driveway to adjacent property line.	5'	5'
C. Road surface width.	>16' but <30'	12'
D. Minimum width clearance from obstructions.	24'	24'
E. Minimum height clearance from trees, wires, etc.	16'	16'
F. Grade	>1% but <5%	Not greater than 10%
F. Required bump out for every 300' of driveway.	N/A	25' long 18' total width
G. Driveways exceeding 75' require a turnaround.	N/A	25' inside radius
H. Centerline angle of drive through right-of-way to centerline of accessed road.	90	N/A
I. Road bed	9" of 3" road rock base 3" of 3/4" road rock top	9" of 3" road rock base 3" of 3/4" road rock top
J. Culvert requirement.	Determined at initial site visit	Determined at initial site visit
K. Culvert specifications. Culverts are to be bedded in with 1 1/2' road rock. (PVC and any other plastic pipe is not acceptable material for culverts.)	Material to be corrugated galvanized metal Minimum 15" diameter 18" arched to be used when there is a large run off	Material to be corrugated galvanized metal Minimum 15" diameter 18" arched to be used when there is a large run off
L. End sections on culverts. (Concrete, stone, and timber are not allowed.)	Std Mfg. apron ends	Std Mfg. apron ends
M. When the driveway in the road right-of-way is in an area sloping up from the road the following general design must be followed:	See diagram below	N/A



N. When there is a crest vertical curve in either direction of the road access the required stopping distance is as stated. Minimum distances will be calculated based on the diagram below. S in the diagram is the stopping distance.	25 MPH requires >150' 35 MPH requires >225' 45 MPH requires >325'	N/A
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SECTION VIII – APPLICATION AND PERMIT PROVISIONS

A. The town board shall approve a form for application for both the Town Driveway Permit and the Town Road Access Permit, which shall be available from the town clerk.

B. The applicant for a Town Driveway Permit or a Town Road Access Permit shall submit to the town clerk a completed application for each with the appropriate fee and with the following attachments:

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 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 Town Driveway Permit or Town Road Access Permit will not be granted without the submission of complete supporting documents.

2. Plat Map. A plat map indicating the location and dimensions of the desired driveway and road access locations as well as the parcels immediately adjacent to the applicant's property. The applicant may first submit only a sketch plat. Once the town board has reviewed the sketch plat, the applicant may be asked to submit an additional preliminary plat or final plat, or both.

3. Aerial Photo/Site Analysis.

4. Soil/Slope Analysis.

5. Driveway Construction Plan.

6. Other Documents. The town board may require other documents to be attached to the Driveway Permit Application, including a County Highway Access Permit.

C. Procedures for the evaluation of the Town Driveway Permit Application and any required Town Road Access Permit Application by the town board, including any required site inspection of the proposed driveway, public hearing, and town board meetings, are as follows:

Permit process for driveway installations in the Town of Jefferson

Prior to the application process for road access and driveway construction the land owner must request a uniform number assignment from land information at the County Courthouse.

Application process:

1. If accessing a county or state highway, contact the Jefferson County Highway Department (920-674-7265) to obtain an application to do work within county highway right-of-way. Also request a copy of rules covering the installation of driveways on county trunk highways in Jefferson County.
2. Complete the County driveway / access application and submit it to the county if accessing a county or state road.
3. Contact the Town of Jefferson Clerk at 920-674-5073 or clerk @ townofjefferson.com to receive a town road access permit application if applicable, a driveway permit application, and a copy of the town's driveway and town road access permit ordinance. A copy of the driveway installation requirements will also be included.

4. Complete the permit applications.
5. Return the completed permit applications with a detailed drawing or certified survey map (CSM), a copy of the approved county driveway permit if applicable, and the required fee (Check made out to: Treasurer, Town of Jefferson) to: Town of Jefferson Clerk, W7002 County RD J Jefferson, WI 53549.
6. A copy of the returned information will be forwarded to the Plan Commission Chair. The Plan Commission Chair will contact the applicant to set up a site visit with applicant or agent and 2 plan commission members. At the site visit the layout and construction will be reviewed and verified that the proposed driveway will comply with ordinance requirements. At this time it will be determined if a culvert is needed along with any other special requirements and these will be documented on the application.
7. The application and all supporting documentation will be reviewed at the Plan Commission's next regularly scheduled meeting.
8. After the Plan Commission's approval the Town clerk will be notified to issue the required permit(s) to construct the driveway and a copy of the permit will be sent to the applicant.
9. A fire sign will be ordered and installed within 4 to 6 weeks.

Inspection Process:

10. When the driveway construction is complete (prior to paving) the Town Clerk is to be notified by the applicant to set up a final inspection.
11. The Town Clerk will notify the Plan Commission Chair to set up a site visit for final inspection.
12. A 2-member Plan Commission team will meet with the applicant or agent and review the construction of the driveway.
13. Upon approval, the Town Clerk will be notified the driveway is approved and that a Town *Driveway Occupancy Permit* will be issued and a copy sent to the applicant. A second copy will be sent to the Town's building inspector notifying him/her that the driveway has been approved and its restriction on issuing the building's occupancy permit has been waived.
14. If it is determined that the driveway does not meet the Town ordinance and plans submitted, the Town Clerk will be notified of corrective actions needed and timeframe. The Clerk will record this in a letter sent by registered mail to the applicant notifying them of the non-compliant issues and the time frame for corrective actions to be completed.
15. Upon completion of corrective actions the applicant will contact the Town Clerk for a second inspection.
16. Upon notification Steps 11, 12 and 13 will be repeated.
17. If a driveway fails a second inspection a new application must be submitted. A new fee will be charged.

D. The town board shall approve or deny every Town Driveway Permit Application or Town Road Access Permit 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 Town Driveway Permit Application or Town Road Access Permit Application may include, but are not limited to:

1. The inconsistency or nonconformance of the proposed driveway or road access with any of the following:
 - a. This ordinance.
 - b. Any existing town comprehensive plan, master plan, or land use plan.
 - c. Town ordinances, rules, regulations, or plans.

- d. Any applicable county, state, or federal laws, ordinances, rules, regulations, or plans.
2. The driveway, bridge, culvert, or road 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 road 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 access highway locations will have less negative land use impact on historically, archaeologically, community, public, culturally significant or environmentally sensitive parcels of land or facilities in the town, including land adjacent to 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 Town Driveway Permit Application or Town Road Access 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 after a Class 1 Notice under s. 985.07, Wis. stats., of the hearing to the town board 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 Driveway Permit or denies two consecutive applications for a Town Road Access Permit on the same parcel, no subsequent reapplication for a permit of the same type that was denied for that parcel will be considered within 12 months of the second denial of either.
- G. Both the Town Driveway Permit and the Town Road Access Permit are 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 or highway access 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 Town Clerk within 30 days after completion of the construction, reconstruction, rerouting, or alteration of the driveway or road access. Within 30 days of notification, the town shall conduct an inspection of the driveway or road access to ensure full compliance with all of the permit conditions and provisions of this ordinance. Upon a determination of completeness and compliance, the town board shall issue a Town Driveway Occupancy Permit.
- J. No occupancy permit for any buildings or structures will be issued by the town until the driveway or Road access is constructed, reconstructed, rerouted, or altered according to the specifications of the permit as issued and this ordinance.
- K. An application fee that is nonrefundable in an amount determined by a resolution of the town board will be charged for each permit application as follows:
 1. Town Driveway Permit Fee is based on the current fee schedule
 2. Town Road Access Permit Fee is based on the current fee schedule
- L. The town board, or its designees, shall have the right of inspection onto land pursuant to a 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 and timely travel by emergency vehicles or vehicles of the general public.

SECTION IX – CONSTRUCTION PLAN OR ROAD ACCESS PLAN

A. The town board may in writing require a driveway construction plan or road access plan prior to any proposed driveway or highway access construction, reconstruction, rerouting, or alteration. A driveway construction plan is required for any of the following unless the requirement is waived by the town board in writing:

1. Construction of a driveway or segment of a driveway that requires the disturbance of land with a slope of more than 10%.
2. A driveway or segment of a driveway that requires a retaining wall or other special erosion control measure as determined by the town board, town building inspector, or other designated officer and prior to any permit issuance.
3. A driveway that crosses a waterway or has the potential to significantly alter existing drainage patterns or quantity of runoff.
4. Construction or modification of a driveway that necessitates construction or improvement of a bridge or culvert.
5. When the town board in writing requests a driveway construction plan or town road access plan.

B. A road access plan is required for all sections of any proposed driveway by the applicant that will enter onto a town road.

C. If required by the town board or its designee, a driveway construction plan or road access plan will include a scale plan showing all of the following:

1. 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.
2. Slope. A profile of the driveway route before and after construction showing a maximum finished driveway slope of 10%.
3. Retaining Walls. The location and structure of any retaining walls.
4. Bridges. The location, size, and design calculations of any bridges.
5. Culverts. The location, size, and design calculations of any culverts.
6. Cross-section. Typical cross-sections of the driveway.
7. Erosion Control. Required mulching, matting, or other erosion control.
8. 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.
9. Other Access Points. The location of any other access points onto the town road within one mile of the proposed access point.

D. No construction, reconstruction, rerouting, or alteration of a driveway nor construction of a highway access onto a town road may commence until all of the following conditions are met:

1. The driveway construction plan or road 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 Road Access Permit is issued by the town.
3. When applicable, any other necessary approvals are obtained from Jefferson County or the State of Wisconsin.
4. The town board shall, when applicable, seek review and comment from the local fire chief, or his or her deputies, regarding the proposed driveway and whether the proposed driveway will allow for adequate and timely emergency vehicle access and other equipment access to buildings and structures within the premises.

E. The preparation of a driveway construction plan or a road access plan does not guarantee the approval of a Driveway Construction Permit or Town Road Access Permit by the town board.

F. As a condition of any Town Driveway Permit or any Town Road Access Permit, the driveway and road access shall be constructed and maintained by the owner or occupant to ensure safe, timely, and proper access and travel by emergency vehicles.

G. The approval of a Town Driveway Permit or Town Road Access Permit application 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. No person may rely on the issuance of either permit to determine that a driveway, bridge, culvert, or road access location is fit or safe for any purpose or that any person is in compliance with this ordinance or any State or County laws or ordinance. The town board may require issuance of a Town Driveway Occupancy Permit prior to any determination by the town board that the driveway is fit for timely and safe travel by vehicles of the general public and emergency vehicles and that such travel is authorized. Issuance of a Town Driveway Occupancy Permit does not ensure that the driveway will be suitable for use or otherwise passable for emergency vehicles at any time after the date of issuance of the Town Driveway Occupancy Permit.

H. The approval of the Town Driveway Permit, Town Driveway Occupancy Permit, or Town Road 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.

SECTION X – 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 \$100.00 nor more than \$500.00, 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 XI – 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 XII – 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 day 3rd of December, 2018.

Michael Hollinger, Chair

Curtis Backlund, Supervisor

Gregg Hill, Supervisor

Jim Mode, Supervisor

Tracie Stammer, Supervisor

ATTEST TO:

Tina Barnes, Clerk

Date Adopted: _____

Date Posted: _____

Effective Date: _____