

Ordinance No. 4-19-06

STATE OF WISCONSIN
Town of Saratoga
Wood County

SECTION I - Title/Purpose

The title of this ordinance is the Town of Saratoga Driveway and Highway Access Permit Ordinance. The purpose is to regulate, for the 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 Saratoga, and to limit and regulate highway access by motor vehicles to any Town highway in the town. This is not a Town Zoning Ordinance.

SECTION II - Authority

The town board has the specific authority under s. 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 the quorum and roll call vote by 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.

SECTION IV - Definitions

In this ordinance:

- A. "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.
- 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 service to a residence, business, recreational site, or other similarly appropriate uses.
- C. "Emergency vehicle" means any fire, police, ambulance or first responder vehicles 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 Saratoga, Wood County, Wisconsin.
- F. "Town board" means the board of supervisors for the Town of Saratoga, Wood 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 Saratoga, Wood County,

Wisconsin.

- H. "Wis. stats." means the Wisconsin Statutes, including successor provisions to cited statutes.

SECTION V – Coverage

- A. No person shall establish or construct a driveway or reconstruct, reroute, or alter the existing slope of any existing driveway or any town 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.
- B. 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 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 Highway 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. Culverts must be of acceptable standard with minimum diameter of 15". The length shall be 24' typically and of concrete, galvanized, aluminum, or other approved material where conditions permit. Driveway entrances to commercial or industrial property, and side roads, typically shall not exceed 30 feet in length. If the Town replaces an existing driveway or side road culvert with a better one the Town shall assume ownership of the culvert replaced.
- E. An additional driveway/culvert may be added where property on one side of the road is separated by a river or creek that would require a waterway larger than a forty-eight inch culvert or bridge.
- F. Driveway surfacing such as blacktop, shall be restored by the Town, but only to the extent removed by Town forces. Concrete surfacing of driveways shall not extend towards the roadway beyond 15 feet from paved roadway surface. Blacktop surfacing shall be permitted to the roadway surface, but typically shall conform to the normal elevation of adjacent highway shoulder, sloping down and away from the roadway surface.
- G.
 - 1. 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.
 - 2. 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 and travel of general public or emergency vehicles to and from the residential dwelling served by the driveway. The determination from 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 ch. 985, Wis. Stat. of the public hearing.

3. The 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 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 dwelling served by the subject driveway may not be possible.
4. Any potentially impacted landowner may provide at the public hearing evidence regarding access provided by and 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.
5. The Town Board, at or after the hearing, may order any of the following:
 - a. 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 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 by in a proper manner and in reasonable time specified by the Town Board and if the driveway is not so reconstructed or repaired and the cost assessed as a special assessment under its police power under ss. 66.0701 and 66.0703, Wis. Stats. against the land.
 - 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 VI – Application/ Permit Provisions

- A. 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.
- B. The applicant for a Town Driveway Permit of a Town Highway 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. 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 the Town Driveway Permit or Town Highway 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 highway access locations, if an, as well as the parcels immediately adjacent to the applicant's property. The application 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 (If required).
 6. Highway Access Location Plan (If Required).
 7. Other Documents. The town board may require other documents to be attached to the Driveway Permit Application, including a Town Highway Access Permit.
- C. Procedures for the evaluation of the Town Driveway Permit Application and any required Town Highway Access Permit Application by the town board, including any required site inspection of the proposed driveway, public hearing, and the town board meetings, are as follows:
1. Permit is received by the town clerk
 2. Town Designee will do a required site inspection
 3. Designee will report back at the next town board meeting for approval or denial of permit
- D. The town board shall approve or deny any Town Driveway Permit Application or Town Highway 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/permittee. Reasons for denying a Town Driveway Permit Application or Town Highway Access Permit Application may include, but are not limited to:
1. The inconsistency or nonconformance of the proposed driveway or highway access with this ordinance, with an existing town comprehensive plan, master plan, or land use plan, with town ordinances, rules, regulation, or plans, or any 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, bridges, 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 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 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 Town Driveway Permit Application or Town Highway 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 the evidence at a public hearing after a Class 1 Notice 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 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 3 months of the second denial of either.
- G. Both the Town Driveway Permit and the Town Highway Access Permit are effective for 3 months from the date of issuance. Each permit shall expire after 3 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 highway access. Within 30 days of notification, the Town will conduct an inspection of the driveway or highway access to ensure full compliance with all of permit conditions and provisions of this ordinance. Upon a determination of completeness and compliance, the Town Board shall issue the appropriate permits.
- J. No building permit for any construction of buildings or structures will be issued by the town until the driveway or highway 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 non-refundable in an amount determined by a resolution of the town board will be charged for each permit application. These fees are specified as follows:
 1. Town Driveway Permit - \$50.00
 2. Town Highway Access Permit - \$50.00
- 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 the safe and timely travel by emergency vehicles or vehicles of the general public.

SECTION VII – Construction Plan or Highway Access Plan

- A. 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. 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 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. When construction or modification of the driveway necessitates construction or improvement of a bridge or culvert.
 - 5. When the town board in writing requests a driveway construction plan or town highway access plan.
- B. A highway access plan is required for all sections of any proposed driveway by the applicant that will enter onto a town highway.
- C. If required by the Town Board or its designee, a driveway construction plan or highway 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.
 - 2. Slope. A profile of the driveway route before and after construction showing a maximum finished driveway slope of 2%.
 - 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 highway within one mile of proposed access point.
- D. 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 Wood 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 such proposed driveway will allow for adequate and timely emergency vehicle access and other equipment

- access to buildings and structures within the premise.
- E. The preparation of a driveway construction plan or a highway access plan does not guarantee the approval of a Driveway Construction Permit or Town Highway Access Permit by the Town Board.
 - F. 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 safe, timely, and proper access and travel by emergency vehicles.
 - G. The approval of a Town Driveway Permit or Town Highway 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 a public access and travel is authorized, or that the applicant or permittee is in compliance with this Ordinance. The Town Board may require issuance of an 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. 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 or that they are in compliance with the ordinance or any State or County laws or ordinance.
 - H. The approval of the town Driveway Permit, Town Driveway Occupancy Permit or the Town Highway 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 VIII- 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 \$5 nor more than \$500, plus the applicable surcharges, assessments, and costs for each violation. Each day a violation exists or continues shall be considered 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 IX- 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 X – Effective Date

This Ordinance is effective on publication.

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

Adopted this 16th day of August 2006

Terry Rickaby
Chairman

John Frank
Supervisor

Douglas Passineau
Supervisor

Danny Forbes
Supervisor

Kenneth Nelson
Supervisor

Heidi Kawleski
Clerk