

106 Private Driveway Ordinance, Town of Cross Plains, Dane County, Wisconsin.

106.01 TITLE. This chapter shall be officially known, cited and referred to as the "**Private Driveway Ordinance, Town of Cross Plains, Dane County, Wisconsin.**"

106.02 AUTHORITY. These regulations are adopted under the authority granted pursuant to Wisconsin Statutes including Sec. 60.10(2)(c), 60.22(3), 61.34(1) and 236.45 of the Wis. Stats.

106.03 PURPOSE AND INTENT. The purpose of this chapter is to provide for the review and approval of the design and construction of a driveway on lands within the town. The intent of these regulations is to promote the safe and efficient travel between private lands and a street, road or highway, to ensure that the location, method of construction, and conservation practices to be used will promote public safety and convenience and will minimize the impact on adjacent property owners, on agricultural activities, and on environmentally sensitive areas, and to ensure access of public safety vehicles and equipment to structures served by the driveway. This chapter is designed to help implement the goals and policies set forth in the adopted Town of Cross Plains Comprehensive Plan.

106.04 JURISDICTION. This chapter shall apply to all driveways constructed on lands within the Town of Cross Plains.

106.05 INTERPRETATION. In their interpretation and application, the regulations contained herein shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare. These regulations shall be construed broadly in favor of the Town of Cross Plains to promote the purpose and intent for which they are adopted.

106.06 SEVERABILITY. If any part or provision of this ordinance or the application of these regulations to any person or circumstance is adjudged invalid by any court of competent jurisdiction, the judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which the judgment shall be rendered. It shall not affect or impair the validity of the remainder of these regulations, or the application of them to other persons or circumstances. The Town Board hereby declares that it would have enacted the remainder of these regulations even without any such part, provision, or application, which is judged to be invalid.

106.07 DEFINITIONS.

(1) Access Point. The area where a driveway intersects the street, road, or highway right-of-way, and as further defined under Driveway Permit Part 1.

(2) Concept Plan. An aerial photograph approved or provided by the town of the entire parcel being divided that indicates the proposed development area(s), and all current proposals for lots, including lot area, building envelope(s), and driveways.

(3) Certified survey map (CSM). A map of land division, not a subdivision, prepared in accordance with Sec. 236.34. Wis. Stats. and in full compliance with the applicable

provisions of both Chapter 75, Dane County Code of Ordinances and Town of Cross Plains ordinances and Comprehensive Plan.

(4) Driveway. A private driveway, lane, field road, temporary driveway, or other avenue of travel that runs through any part of a private parcel of land or that connects with or will connect with any street, road or highway right-of-way.

(5) Driveway Layout Plan. A drawing to scale showing the layout of the entire driveway on a map of the property that contains sufficient details to demonstrate that the driveway can be constructed to meet the technical specifications of this chapter, the Town of Cross Plains Driveway Construction Guide and goals of the Town of Cross Plains Comprehensive Plan.

(6) Driveway Permit Part 1. A valid authorization granted by the governing body controlling the street, road, or highway right-of-way allowing access to the street, road or highway.

(a) For streets, roads, or highways under the control of the Town, a Driveway Permit Part 1 is a permit granted by the Town Board allowing access to the street, road, or highway and the placement and construction of that portion of a proposed driveway which may extend to a maximum of fifty (50) feet from the centerline of the roadway surface.

(b) For streets, roads, or highways under the control of the county or state, the required access permit granted by that governing body controlling the right-of-way shall be obtained by the applicant and a copy provided to the Town before placement and construction of that portion of a proposed driveway which may extend to a maximum of fifty (50) feet from the centerline of the roadway surface.

(7) Driveway Permit Part 2. An authorization granted by the Town Board allowing the placement and construction of a driveway from the access point, as permitted under Driveway Permit Part 1, to the building site.

(8) Shared Driveway. A driveway that provides access to any street, road or highway for more than one parcel of land or lot.

(9) Shared Driveway Agreement. An agreement between the parties sharing any portion of a driveway that shall at a minimum address the rights of the parties concerning access and contain language addressing how any disputes or conflicts between the parties, or their heirs, successors or assigns will be resolved and furthermore shall contain language that absolves the Town from responsibility for or involvement in any dispute resolution.

(10) Engineered Plan. A driveway plan that is laid out according to an engineered plan prepared by a licensed professional engineer.

(11) Farm to Market Road. A town road, built most often with the intent to serve one or more farmsteads for the purpose of facilitating farm-to-market activity, which may or may not meet current town road standards. The Farm to Market Roads include, but are not limited to, those roads inventoried on the Town of Cross Plains Unimproved Farm to Market Roads List.

(12) Field Road. A road used exclusively for agricultural uses, and not any other commercial or residential use. A field road without a direct access point to a street, road or highway does not require a Driveway Permit Part 1 and Part 2. A new field road with direct access to a street, road or highway does require a Driveway Permit Part 1 for the protection of safe and efficient travel between private lands and a street, road or highway.

(13) Plat. A map of a subdivision

(14) Right of way. An area within which free passage allowed. The intent and purpose of the right of way is to allow all owners of parcels on a shared driveway to freely access their property, and in furtherance of this no permanent structures or obstructions may be placed within the right of way.

(15) Town Road. Any town street, road, highway or thoroughfare that is dedicated to and accepted by the Town or is established under Chapters 66, 80, or 81, or 82, Wis. Stats. Town streets, roads, and highways shall be governed by the provisions of the Town Road Ordinance, Town of Cross Plains, Dane County, Wisconsin.

(16) Subdivision. A division of a parcel of land where the act of division creates either:

(a) Five or more lots, parcels or building sites of 35 acres each or less on an area; or

(b) Five or more lots, parcels or building sites of 35 acres each or less in an area by successive divisions within a period of five years, whether by the original or a subsequent owner.

(c) All area calculations are to be exclusive of any dedications, right-of-way, easements or reservations.

(17) Topography. The surface features of an area of land.

106.08 GENERAL PROVISIONS

(1) Driveway Permit Application Fee. A non-refundable fee of an amount to be determined by the Town Board shall be paid with the submission of each Driveway Permit Application. The current amount of the fee may be obtained from the Town Clerk.

(2) Driveway Permit Application. Applications for Driveway Permits are available from the Town Clerk. All applications shall contain the name, address and phone number of the applicant and physical location data. All applications shall be filed with the Town Clerk together with the permit fee at least two (2) weeks prior to the next regularly scheduled Town Board meeting at which it is to be considered.

(3) Building Permits. No Building Permit for new construction shall be issued without proof of a valid Town of Cross Plains Driveway Permit. No new construction beyond the footings and foundation may be initiated until the driveway is inspected by the Town and is found to be constructed in accordance with the technical specifications of this chapter, the Town of Cross Plains Driveway Construction Guide and the goals of the Town of Cross Plains Comprehensive Plan. The only exception to the required completion of the driveway will be the final application of gravel, seal coating or paving, which may be delayed until heavy equipment needed for building activities will no longer be using the driveway.

(4) Driveway Access. One driveway access point to a street, road or highway may be permitted for each parcel of land or lot, except where a shared access is available and would better promote public safety, better serve the public interest, and would better conform to the goals and policies set forth in the Town of Cross Plains Land Use Plan, and the purpose and intent of this ordinance. More than one driveway access point for a parcel of land may be considered when the additional access point meets the purpose and intent of this chapter and special circumstances so warrant.

(5) Driveway and Access Locations. Access to rights-of-way and driveways shall be located to: promote the safe and efficient access and travel between a right-of-way and parcels

of land and lots; ensure that the location, method of construction, and conservation practices related to the driveway will promote public health safety and welfare; minimize the impact on adjacent property owners, agricultural activities, and environmentally sensitive areas; and ensure safe and adequate access of public safety vehicles and equipment to structures served by the driveway. To the extent that the location of a driveway is not detrimental to public safety or the environment, or will not impede access for public safety vehicles and equipment to structures served by the driveway, it shall be located in such a manner as to minimize the impact on agricultural land use.

(6) Period of Approval. Driveway Permit Part 1 and Driveway Permit Part 2 are valid for a period of two years after the date of approval by the Town Board. If construction is not completed at the end of the two-year period, the Driveway Permit Part 1 and Part 2 will automatically expire and, a new application shall be submitted along with the required fee. The period of approval of a permit granted by another governing body controlling the right-of-way, the state or the county, not the Town, shall be determined by that governing body.

(7) Permits Required. An approved Driveway Permit Part 1 is required prior to the approval of the Driveway Permit Part 2. When a driveway accesses a state or county highway, the required access permit granted by that governing body controlling the right-of-way shall be obtained by the applicant and a copy provided to the Town before issuance of the Driveway Permit Part 1. An approved Driveway Permit Part 2 is required for the construction of a new driveway from the access point to the building site and shall be obtained from the Town Board prior to construction, pursuant to this chapter.

(8) Shared Access.

(a) Access for more than one parcel of land or lot to a street, road or highway via a shared private driveway may be approved when the Town Board determines that a shared private driveway is desirable for public safety, to minimize agricultural or environmental impact, conforms to the goals and policies set forth in the Town of Cross Plains Land Use Plan, and conforms to the purpose and intent of this chapter.

(b) Each property served by a shared driveway must have road access guaranteed by a shared driveway agreement recorded with Dane County Register of Deeds. A shared driveway agreement legally binding on the property owners who will have shared access shall be executed by the property owners and recorded with the Dane County Register of Deeds as part of a Driveway Permit Part 1 and Part 2 approval process. The shared driveway agreement shall be in a form and contain terms reasonably acceptable to the Town Board including, but not limited to, responsibility and criteria for authorizing and paying for repair, replacement and maintenance and minimum specifications for road materials and design.

(c) Up to three (3) single family detached dwelling units may share one (1) driveway, or one (1) single family detached dwelling unit and one (1) duplex dwelling unit may share one (1) driveway.

(9) Spacing. The Town shall not approve Driveway Permit Part 1 for a new driveway when the horizontal distance from the centerline of the access point is less than 250 feet from the centerline of an intersecting street, road or highway.

106.09 APPLICATION REQUIREMENTS AND PROCEDURES.

(1) No person shall establish or construct a driveway or field road that accesses, connects to, or intersects a street, road, or highway right-of-way within the Town of Cross Plains without approval from the Town Board in the form of the issuance of a Driveway Permit Part 1 and Part 2.

(2) The owner of any existing parcel of land or lot shall file for a Driveway Permit Part 1 and Part 2 on an application form obtained from the Town Clerk. When a driveway accesses a state or county highway any state or county access permit shall be obtained by the applicant and a copy provided to the Town with the Driveway Permit Application.

(3) The Driveway Permit Application will be reviewed by the Town Board, who shall arrange to conduct a site visit of the proposed driveway to determine compliance with the provisions of this chapter and the Town of Cross Plains Land Use Plan.

(4) In determining whether to approve, conditionally approve, or deny the Driveway Permit Application, the Town Board, at a regularly scheduled meeting, will consider the following: whether or not the proposed driveway conforms to all of the requirements of this chapter (including the purpose and intent of the chapter) and any applicable state or county regulations; whether or not the proposed driveway conforms to the requirements of the Town's Comprehensive Plan; public comment regarding the potential impact of the proposed driveway on adjacent property owners; and the impact of the proposed driveway on public

safety, agricultural activities and the environment. As a condition of permit approval, the Town Board may require modification of the location or design specifications of the proposed driveway. The submission of an engineered plan does not guarantee approval of a Driveway Permit by the Town Board.

(5) An applicant may request a variance from the strict application of specific provisions of this chapter. Variance requests may be added to the agenda of the next regularly scheduled Town Board meeting, at which time public comment will be considered regarding the advisability of any variance requested by the applicant. The decision to grant or deny a variance shall be based on criteria set forth in this chapter.

106.10 DRIVEWAY INSPECTION. The Town shall inspect a driveway following completion of the rough grade and prior to application of the substrate to determine whether or not the driveway conforms to the requirements of this chapter and the requirements and conditions of the Driveway Permit. Any driveway found to be in violation shall be subject to the penalties specified in Section 106.15.

106.11 PLAN REQUIREMENTS.

(1) Driveway Layout Plan. A driveway layout plan is required for all segments of any proposed driveway construction.

(2) Engineered Plan.

(a) An engineered plan prepared by a licensed professional engineer shall be required for construction of a new driveway under the following circumstances:

(a.1) For any driveway or segment of a driveway found by the Town Board to contain significantly unusual circumstances such as: site topography including slopes greater than 10%, soil type, a historically or archeologically sensitive area, one that requires a retaining wall, bridges, dams, or other special erosion control measures, or proximity to natural, recreational, or watershed areas; or

(a.2) For any driveway or segment of a driveway for which the Town Board requests an engineered plan.

(b) An engineered plan shall consist of a scale plan including:

(b.1) Location. The precise location on the property of the proposed driveway or segment of the driveway that requires an engineered plan.

(b.2) Slope. The slope of the proposed driveway showing no segment exceeding 12% slope.

(b.3) Culverts. The location and dimensions of any culverts and how the size was determined.

(b.4) Cross-section. A cross-section diagram of the proposed driveway.

(b.5) Erosion Control Measures. Any required grading, seeding, mulching, ditching, retaining walls or other erosion control measures.

(b.6) Certification. The engineered plan shall include the engineer's name, address, license number, and signature; and shall include a statement from the engineer that the plan fully complies with all the provisions of this chapter.

(3) Erosion Control Plan. The driveway layout plan or engineered plan shall be accompanied by evidence of compliance with applicable county and state erosion control regulations.

106.12 DRIVEWAY SPECIFICATIONS. A complete listing of driveway specifications is published in the Town of Cross Plains Driveway Construction Guide, which is available from the Town Clerk. The construction of a driveway shall comply with the Town of Cross Plains Driveway Construction Guide.

106.13 VARIANCE. Where the Town Board finds that an undue hardship may result from strict compliance with the provisions of this chapter, it may consider granting a variance to one or more provisions so that substantial justice may be done and the public interest secured, provided that any such variance shall not have the effect of nullifying the purpose and intent of this chapter and provided that the Town Board shall making findings based upon information presented to it in each specific request that all the following are applicable:

(1) Safety. The granting of the variance will not be detrimental to the public safety, health or welfare;

(2) Uniqueness. The conditions upon which the variance request is based are unique to the property for which the variance is sought and are not generally applicable to other properties;

(3) Hardship. Because of the particular physical surroundings or topographical conditions of the specific property involved, an undue hardship to the property owner would result, as distinguished from a mere inconvenience or financial considerations, if the strict letter of the regulations were enforced.

(4) Measures of Protection Provided. The variance shall include measures to provide an equivalent level of health, safety, and environmental protection as the chapter provision being varied and shall under no circumstances prevent access of public safety vehicles and equipment to structures served by the driveway.

106.14 EXISTING DRIVEWAYS.

(1) Existing driveways constructed prior to enactment of this ordinance shall be permitted to remain in service so long as they do not present a hazardous condition, as defined in Section 106.14(2). A permit shall not be required to maintain or regrade an

existing drive, unless the access point to a public road or a shared driveway is changed. In such a case a permit is required, as is Board review.

(2) Hazardous Conditions. When or if the Town Board determines an existing driveway poses a potential hazard to the public the Town Board shall notify the property owner of the potentially hazardous conditions and require the owner to take remedial action to correct the problem. (Examples of potential hazard to the public versus hazard to the individual property owner include but are not limited to the following: blockage of culverts, washouts, tree limbs which hinder visibility, construction which deposits substantial debris or ice on the public road, or conditions which prevent the access of public safety vehicles and equipment such as fire engines and ambulances.) Remedial action to correct the problem shall be limited to only that which is required to eliminate the public hazard and shall not require the driveway to be upgraded to the standards for new driveway construction. (An example of remedial action is unplugging the culvert.) The notice to the property owner shall state the deadline for correcting the problem that is not less than 30 days and is sensitive to severity of the hazard and seasonal conditions that may impact the corrective action. Any property owner failing to correct such conditions within the time frame (at least thirty days except in cases posing an immediate hazard and for which a quicker response is practical) as stated in the notice by the Town Board may be subject to the following:

- a. As provided by Wis. Stats. Section 66.60(16), the landowner shall be liable for any costs incurred by the town to remedy the hazardous conditions.
- b. If the condition is one which prevents full-response of public safety vehicles and equipment the town may provide written notice that the town may not be able to insure full-response in the case of an emergency.
- c. The landowner may be subject to the penalties described in section 106.15 of this chapter.

(3) Field Road. A field road shall not be used for non-agricultural purposes until the owner of the property on which the field road is located has obtained a Driveway Permit Part 1 and Part 2 under the provisions of this chapter.

106.15 PENALTIES

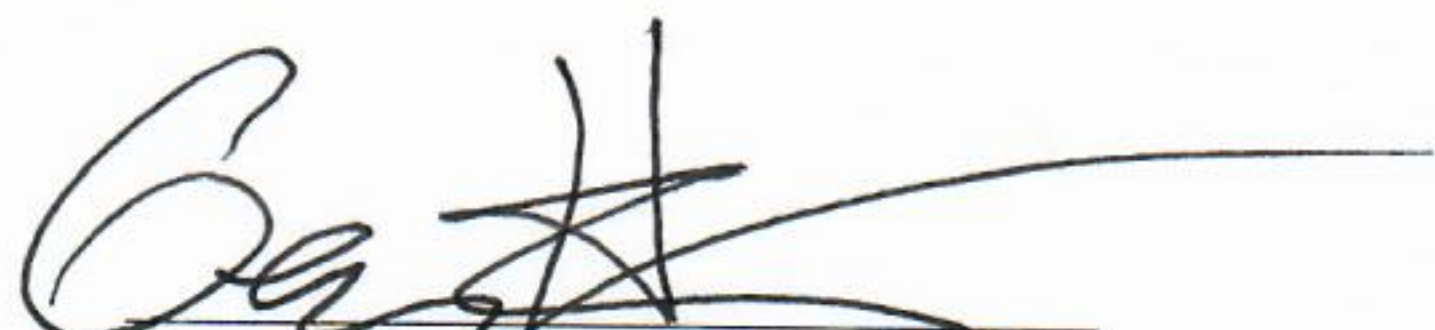
(1) Forfeitures. Should a driveway be constructed in violation of the provisions of this chapter, or create a hazard that is not corrected within 30 days of notification of the property owner of said hazard, the owner of the land through which the driveway passes shall, upon conviction, pay a forfeiture 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.

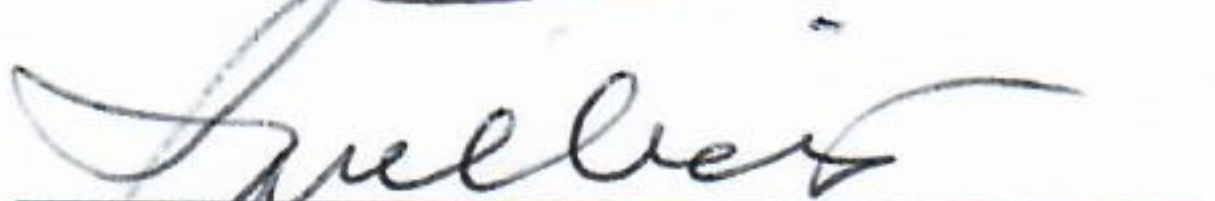
(2) Corrections. A landowner shall make the corrections to violations of the provisions of this chapter and the Driveway Construction Guide ordered by the Town Board within 30 days or within a period of time determined by the Town Board.


106.16 DISCLAIMER. Approval by the Town Board of a Driveway Permit Part 1 and Part 2 does not constitute a determination that the driveway is in fact safe, suitable for use, or otherwise passable for the public. No person shall rely on the issuance of a Driveway Permit by the Town Board to determine that a driveway is fit for any purpose. Moreover, the permit applicant, his heirs, successors or assigns, agrees that as a condition of the issuance of a Driveway Permit Part 1 and Part 2 to indemnify and hold harmless the Town of Cross Plains, its officials, officers, agents, or employees, against any claim or cause of

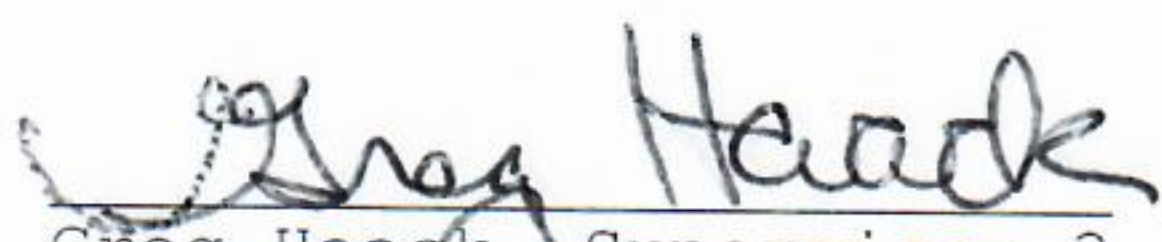
action for personal injury (including death) or property damage in anyway related to or arising from the construction or use of a driveway that was constructed pursuant to a Driveway Permit Part 1 and Part 2 sustained by reason of the exercise of an approved Driveway Permit Application.


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


Greg Hyer, Town Chair

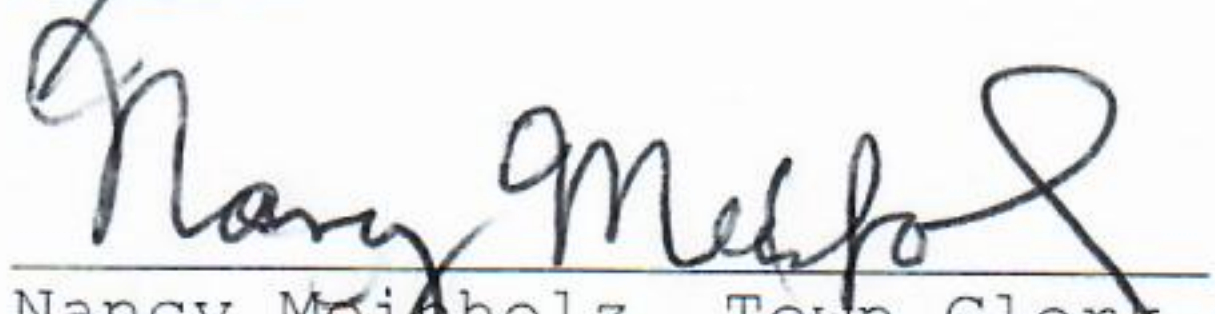

Patty Mullins, Supervisor 1


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ATTEST:


Nancy Meinholtz, Town Clerk

Adopted: November 22, 2021_____

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